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Editor’s Note: Chapter 2 – Administration was repealed and recreated by Ordinance No. 44-12, adopted by the Appleton Common Council on June 6, 2012, published on June 11, 2012 and becoming effective on June 12,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

Sec. 2-1. Destruction of public records.

(a) General city records retention/disposition schedule.

(1) The purpose of this section is to establish a general city records retention/disposition schedule and authorize destruction of city records pursuant to the schedule. Records custodians may destroy a record prior to the time set forth in this schedule only if such record has been photographically reproduced as an original record or converted to optical disk format pursuant to W.S.A. § 16.61(7).

(2) Where indicated in the records retention schedule, the State of Wisconsin Public Records Board has waived the required statutory 60-day notice for city records; therefore, for those records, notification to the State Historical Society of Wisconsin is not required prior to destruction.

(3) The general City of Appleton Records Retention/Disposition Schedule, as approved by the State of Wisconsin Public Records Board setting forth records and retention periods, is hereby adopted, a copy of which is on file in the office of the City Clerk and made a part hereof by reference as though fully set forth herein.

(4) Destruction of records pursuant to the approved retention/disposition schedule is contingent upon the restrictions to record destruction contained in Wis. Stats. § 19.35(5), (Open Records Law), and that no records shall be destroyed if litigation or audit involving those records has commenced.

(5) Records not addressed by the City of Appleton Records Retention/Disposition Schedule are subject to a retention period of not less than seven (7) years as set forth is §19.21(5)(c), Stats.

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

(1) Traffic accident reports.

(2) Citizen contact warning tickets.

(3) Telephone line recordings.

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

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

(6) Weekly reports.

(7) Ride-along records.

(8) False alarm records.

(9) Fingerprint records and mug shots.

(10) Overtime vouchers.

(11) Daily roster/schedule.

(12) Daily alert bulletin.

(13) Master cash register receipt rolls.

(14) Offense reports/investigations.

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

(16) Overnight parking register.

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

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

(c) Other records. The purpose of this section is to establish a library record retention schedule and authorize destruction of library records in accordance with that schedule. Record custodians may destroy a record prior to the time set forth in this schedule only if such a record has been photographically reproduced as an original record or converted to optical disk format pursuant to Wis. Stat. § 16.61(7).

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

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

(f) **Microfilm and similar devices.** Any public record may be kept and preserved by the use of microfilm or other reproductive device. Any photographic reproduction shall be deemed an original record for all purposes if it meets the applicable standards of W.S.A. § 16.61(7). Once reproduced by photographic reproduction, the original document may be destroyed or otherwise disposed of. (Code 1965, §2.14; Ord. 5-93, §1-6-93, Ord. 13-93, §1-1-20-93, Ord 237-02, §1, 11-6-02; Ord 129-07, §1, 9-11-07, Ord 65-08, §1, 3-25-08; Ord 44-12, §1, 6-6-12; Ord 40-13, §1, 7-16-13; Ord 60-14, §1, 9-9-14; Ord 8-20, §1, 2-11-20)

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


Secs. 2-2 – 2-25. Reserved.

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**ARTICLE II. COMMON COUNCIL***

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

The City operates under the Mayor-Alderperson form of government.

(Code 1965, §1.01)

*Charter ordinance references – Elected officers enumerates. §2-1; Wards. §2-3

**Cross reference(s)** – Elections –2-411, et seq.

**State law reference(s)** – Common Council. W.S.A. §62.11.

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

The Council at its first meeting subsequent to the regular election and qualification of new members, shall choose from its members a Vice President, who in the absence of the Mayor and Council President, shall have the duties and responsibilities as indicated in §62.09(8)(e) of the Wisconsin Statutes.

(Ord 61-09, §1, 5-12-09)

**Editor’s notes.** Ord 70-93, §1, adopted April 21, 1993, repealed §2-27, which pertained to aldermanic districts. Ord 61-09, effective May 12, 2009 created a new section outlining succession.

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

Every proposed ordinance, on being introduced at a meeting of the Common Council, shall be referred to an appropriate committee for examination, amendment and report. The committee shall review the proposal and report the ordinance to the Common Council for its consideration. Upon approval of the proposed ordinance for adoption by the Council, the City Attorney shall draft the ordinance in appropriate language. Said ordinance shall then be submitted to and given final approval by the Common Council.

(Code 1965, §25.01; Ord. 5-92, §1-22-92 ; Ord 72-10, §1, 5-11-10)

**Sec. 2-29. Alderperson absence; participation electronically.**

(a) An alderperson, who is a qualified individual with a disability as defined in s. 35.104, Code of Federal Regulations, Title 28, Chapter 1, Section 3, unable to appear in person at a meeting of the Common Council may request in writing or by email at least twenty-four (24) hours in advance of the meeting the written or emailed permission from the President of the Common Council to participate in the meeting electronically. The participation by said alderperson electronically shall be permitted in cases where extreme temperatures would negatively impact adaptive equipment used by the person either on their person or as a mode of transportation; or, during times when a national or state public health emergency is in
effect and attending a public meeting would place the alderperson’s health at risk. An alderperson’s appearance electronically must be noted in the meeting minutes. Electronic participation must occur in the meeting room so that the physically absent member can hear and can be heard by all those who are present. An alderperson appearing electronically shall be entitled to participate and vote to the fullest extent possible.

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

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

(Ord 22-17, §1, 2-21-17; Ord 5-20, §1, 3-24-20)

Secs. 2-30 – 2-50. Reserved.
DIVISION 2. BOARD OF HEALTH*

Sec. 2-76. Created.

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

(b) That in addition to the responsibilities outlined in (a), the Board shall take such steps as it determines to educate the public regarding the problems of alcohol, tobacco and other drug abuse, and to develop such public information programs as it deems necessary in relation thereto.

(Ord 1-97, 1, 1-8-97; Ord 44-12, §1, 6-6-12)

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

The Board of Health shall consist of eight (8) members who shall be the Mayor and seven (7) members appointed by the Mayor subject to confirmation by the Common Council. Two (2) of the seven (7) members of the Board shall be a member of the Common Council. Members of the Board shall have a demonstrated interest or competence in the field of public health or community health, and a good faith effort shall be made to appoint a registered nurse and physician. Members of the Board shall hold office for terms of two (2) years.

(Code 1965, 1.04(5); Ord 101-95, 11-15-95, §1, 11-15-95, Ord 237-02, §1, 11-6-02, Ord 12-05, §1, 2-22-05; Ord 44-12, §1, 6-6-12; Ord 36-15, §1, 5-12-15)

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

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

(b) Within ten (10) days after the appointment of members, at a time and place to be designated by the Mayor by written notice timely mailed to each member, the Board of Health shall organize by the election of a president and a secretary, who shall hold their respective offices for a term of one (1) year or until their successors are elected. The secretary shall keep full minutes of the proceedings of the Board of Health in proper books.

(Code 1965, 7.01(2))

Sec. 2-79. Meetings.

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

(Code 1965, §7.01(2))

Sec. 2-80. Compensation of members.

The members of the Board of Health shall receive no compensation.

(Code 1965, §7.01(3))

Sec. 2-81 – 2-120. Reserved.

*Cross reference(s) - Health officer, §2-261 et seq.; administration of the health regulations, §7-26 et seq.: food and food services, §9-186 et seq.; nuisances, ch. 12; the Board of Health may grant specific variances from the noise control ordinance. §12-83.

State law reference(s) - Board of Health, W.S.A. §251.03; health officer, W.S.A. §251.06

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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. Reserved.

(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.)

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.
ARTICLE VI. CONVERSION THERAPY

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*Cross reference(s)--Health officer, §2-261 et seq.; housing standards, §4-231 et seq.; sanitary facilities required for housing, §4-238.

State law reference(s)--Disposal of abandoned property, W.S.A. §66.28; noxious weeds, W.S.A. §66.955 et seq.
ARTICLE VI. CONVERSION THERAPY

Sec. 7-300. Conversion therapy.

(a) Definitions. As used in this section:

Conversion therapy means any practices or treatments offered or rendered to patients, including psychological counseling, that seeks to change a person’s sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy does not include counseling that provides assistance to a person undergoing gender transition, or counseling that provides acceptance, support, and understanding of a person or facilitates a person’s coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual’s sexual orientation or gender identity.

Medical or mental health professional means any individual who is licensed by the State to engage in a profession related to physical or mental health, including any interns, trainees, or apprentices who provide medical or mental health services under the supervision of a licensed medical or mental health professional.

(b) Prohibited acts. It shall be unlawful for any medical or mental health professional to engage in conversion therapy with any person under 18 years of age.

(c) Referral to State. Allegations that a medical or mental health professional is in violation of this section shall be submitted in writing to the City Health Officer or their designee. The City Health Officer or their designee shall refer the written allegations to the State of Wisconsin Department of Safety and Professional Services, which regulates therapy services and professional counseling, for investigation and other actions it deems appropriate.

(Ord 13-20, §1, 2-11-20)

(The next page is 545.)
MISCELLANEOUS OFFENSES

Chapter 10

Miscellaneous Offenses

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*Cross reference(s)--Fireworks in public parks and recreation areas, §13-83.
Sec. 10-1. Penalty for violation of chapter; responsibility for costs of damage to public property; party to a violation and attempt.

(a) **Penalties.** Any person who shall violate any provision of this chapter shall upon conviction thereof be punished as provided in §1-16. If a conviction is based upon subsection (c) or (d), the person is subject to the same penalties provided in §1-16.

(b) **Damages.** In addition to any penalty imposed, in §1-16, any person who shall cause physical damage to or destroy any public property shall be liable for costs of replacing or repairing such damages or destroyed property. The parents of any unemancipated minor child who causes such damage may be held liable for the cost of replacing or repairing such damages or destroyed property in accordance with W.S.A. §895.035.

(c) **Parties to a violation.** Whoever is concerned in the commission of a violation of this chapter is a principal and may be charged with and convicted of the commission of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other offense based on the same act. A person is concerned in the commission of the violation if the person directly commits the violation, intentionally aids or abets the commission of or is a party to a conspiracy with another to commit it, or advises, hires, counsels or otherwise procures another to commit it.

(d) **Attempt.** Whoever attempts to commit a violation of this chapter may be charged with and convicted of the violation. An attempt to commit a violation of this chapter requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such violation and that the actor does act toward the commission of the violation which demonstrates unequivocally, under all the circumstances, that the actor formed that intent and would commit the violation except for the intervention of another person or some extraneous factor.  
(Code 1965, §8.15, Ord 29-03, §1, 2-25-03; Ord 105-06, §1, 9-12-06)

Sec. 10-2. Discharge of dangerous weapons.

(a) It is unlawful for any person, except a sheriff, constable, police officer or their deputies, to fire or discharge any firearm, rifle, spring or air gun of any description or tipped arrow within the City.

(b) **Exceptions.** Subsection (a) shall not apply to any of the following:

1. The maintenance and use of duly supervised rifle or pistol ranges or shooting galleries or archery ranges approved by the Chief of Police.

2. Hunting with a bow and arrow or crossbow.

   a. Hunting is not permitted within the city of Appleton except with a bow and arrow or crossbow. Hunting does not include target practice.

   b. It shall be unlawful for a person to hunt with a bow and arrow or crossbow within a distance of one hundred (100) yards from any permanent structure used for human occupancy on another person’s land. This restriction shall not apply if the person who owns the land on which the building is located allows the hunter to hunt with a bow and arrow or crossbow within the specified distance of the building.

   c. When hunting with a bow and arrow or crossbow, a person shall shoot or discharge the arrow or bolt from the respective weapon toward the ground.

   d. When hunting with a bow and arrow or crossbow, no person shall shoot or discharge the arrow or bolt from the respective weapon in a manner that may endanger the life, limb or property of another or will traverse any part of any street, alley, trail, public grounds or parks.

   e. It shall be unlawful for a person to hunt on any portion of land owned or leased by the City of Appleton.

   f. When hunting with a bow and arrow or crossbow, a person shall follow all Wisconsin State Statute and DNR regulations pertaining to bow hunting.

(c) **Penalties.** Any person that violates any of the provisions of this section may be subject to a forfeiture of no more than five hundred dollars ($500) for the first offense and no more than one thousand dollars ($1,000) for the second and subsequent offenses. Each day that a violation occurs shall be considered a separate offense.  
(Code 1965, §8.01(1); Ord 118-06, §1, 10-10-06; Ord 6-14, §1, 3-11-14)

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.  
**State law reference(s)** – Weapons, W.S.A. §941.20.

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Sec. 10-3. Adoption of state law regarding carrying of weapons.

W.S.A. §939.22(10) and §941.23 regarding weapons, exclusive of the penalty, is hereby adopted and made an offense punishable as a violation of this Code.
(Code 1965, §8.01(2))
Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 10-4. Sale of dangerous weapons to minors.

No person shall buy for, sell or give away to any minor any dangerous weapon, without first having obtained the written consent of the parent or guardian of such minor. For purposes of this section, the term “dangerous weapon” shall mean and include the following instruments: blackjack, billy, sandclub, pistol, revolver, any instrument which impels a missile by compressed air, spring or other means, any weapon in which loaded or blank cartridges are used, cross knuckles of any metal, nunchaku or nunchuck sticks, throwing stars or shurikens.
(Code 1965, §8.01(4); Ord 38-16, §1, 3-22-16)
Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 10-5. Sale and discharge of fireworks.

(a) Adoption of state law. W.S.A. §167.10 regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this chapter as though set forth in full.

(b) Permits. Fireworks other than those prohibited by the laws of the state may be used and displayed in open fields, parks, rivers, lakes and ponds by public authorities, fair associations, amusement parks, park boards, civic organizations and other groups of individuals when a permit for such display has been granted by the Mayor. All applications shall be referred to the Fire Chief for investigation and no permit shall be granted unless the Mayor, from the report of the Fire Chief, determines that the applicant will use the fireworks in a public exhibition, that all reasonable precautions will be exercised with regard to the protection of the lives and property of all persons, and that the display will be handled by a competent operator and conducted in a suitable, safe place and manner.
(Code 1965, §8.01(5))
Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 10-6. Operation of boats.

(a) Adoption of state law. Except as otherwise provided in this section, the provisions of W.S.A. §30.50 to §30.80 shall apply to the operation of boats on the navigable waters of the City and such statutes are adopted by reference and made a part of this section. A violation of such statutes shall be a violation of this Code. The navigable waters of the City are hereby determined to be those waters of the Fox River lying within the City limits.

(b) Speed of watercraft. No person driving, operating or using any power-propelled vessel, craft or float shall operate said vessel, craft or float at a speed in excess of slow no wake speed, on that portion of the Fox River from the Appleton Yacht Club south to the Appleton City limits.

(c) Reckless operation. No person shall drive, operate or use any vessel, craft or float on the navigable waters of the City in a careless, negligent or reckless manner so as to endanger the life, property or persons of others.

(d) Mufflers.

(1) No person shall drive, operate or use any vessel, craft or float propelled by an internal combustion engine using gas, gasoline, naphtha or other like fuel unless it is equipped with an underwater exhaust or other muffling device so constructed and used so as to adequately muffle the noise of the explosion. Such internal combustion engine or motor shall be installed on such vessel in such a manner that any underwater exhaust shall exhaust under water at all times; provided, however, that the regulations of this subsection shall not apply when the Mayor issues a permit for a regatta, motorboat race, or exhibition speed boat trial.

(2) No person shall drive, operate or use any vessel, craft or float propelled by an internal combustion engine equipped with a muffling device which has been altered in any manner from the manufacturer's specifications so as to increase its emission of noise.

(3) Every boat propelled by gasoline or other motor power operated on the Fox River in the City shall be equipped with a muffler at all times in good working order sufficient to prevent excessive or unusual noise. It shall be unlawful to operate any such boat so propelled by gasoline or other motive power with the muffler off or cutout open on the Fox River in the City.
(e) **Lights.** No person shall drive, operate or use any vessel or craft from sunset to sunrise unless such vehicle or craft carries the lights prescribed by W.S.A. §30.61.

(f) **Life preservers.** No person shall drive, operate or use any vessel, craft or float unless it carries at least one (1) United States Coast Guard approved life preserver or life belt or ring buoy or cushion or other similar United States Coast Guard approved device for each person on board, so placed as to be readily accessible.

(g) **Overloading vessels.** No person shall drive, operate or use any vessel, craft or float which is loaded with passengers or cargo beyond its safe carrying capacity.

(h) **Permits.** Permits for motorboat regattas, motorboat races, exhibition speedboat trials and water ski or aquaplane exhibitions shall be issued by the City through the Mayor upon application made in writing; provided that in the Mayor's opinion such particular use of the river can be carried out in an orderly fashion, safely and equally convenient, as near as may be, to all vessels and watercraft whatsoever. If the Mayor denies a request for a permit then such request shall, upon written demand of the applicant to the Mayor, be referred to the Common Council for final determination.

(Cod 1965, §8.01(9); Ord 74-94, §1, 7-20-94)

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

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**Sec. 10-7. Operation of aircraft.**

No person operating an aircraft over the City shall:

(1) Engage in trick or acrobatic flying.

(2) Except for the purpose of taking off or landing, operate at a height of less than three thousand (3,000) feet.

(3) Intentionally drop any object from the aircraft.

(Cod 1965, §8.01(10))

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

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**Sec. 10-8. Residential picketing; unlawful assembly.**

(a) **Declaration.** It is declared that the protection and preservation of the home is the keystone of democratic government; that the public health and welfare and the good order of the community require that members of the community enjoy in their homes and dwellings a feeling of well-being, tranquility and privacy, and when absent from their homes and dwellings, carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes and dwellings; that the practice of picketing before or about residences and dwellings causes emotional disturbance and distress to the occupants, obstructs and interferes with the free use of public sidewalks and public ways of travel; that such practice has as its object the harassing of such occupants; that without resort to such practice full opportunity exists and under the terms and provisions of this section, will continue to exist for the exercise of freedom of speech and other Constitutional rights; and that the provisions enacted in this section are necessary for the public interest to avoid the detrimental results set forth in this section and are enacted by the Common Council pursuant to the provisions of W.S.A. §62.11(5).

(b) **Picketing residence unlawful.** It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual.

(c) **Unlawful assembly.** W.S.A. §947.06 is adopted and made a part of this chapter by reference as though fully set forth in this section.

(Cod 1965, §8.13)

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

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**Sec. 10-9. Adoption of state law regarding crimes against public peace, order and other interest.**

W.S.A. §947.01 et seq., regarding crimes against public peace, order and other interests, are hereby adopted and made an offense punishable as a violation of this Code.

(Cod 1965, §8.02(1), Ord 29-03, §1, 2-25-03)

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

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**Sec. 10-10. Adoption of state law regarding resisting or obstructing officer.**

W.S.A. §946.41 regarding resisting or obstructing officer, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Cod 1965, §8.02(4)(a)--(c), Ord 29-03, §1, 2-25-03)

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.
Sec. 10-11. Misuse of 911.

(a) No person shall use the 911 Emergency Telephone System for regular business or non-emergency calls.

(b) No person shall dial 911 Emergency Telephone number to report an emergency, knowing that the fact or situation reported does not exist.

(Ord 26-05, §1, 4-12-05; Ord 92-07, §1, 5-22-07)

Editor's Note: This section, Sec. 10-11, Police dogs, was repealed due to the adoption of the new Animal Ordinance.

Editor's Note: This new section, Misuse of 911, was created and adopted by the Common Council in May 2007.

Sec. 10-12. Adoption of state law regarding impersonation of peace officer.

W.S.A. §946.70 regarding impersonating a peace officer, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Code 1965, §8.02(5))

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

Sec. 10-13. Adoption of state law regarding battery.

W.S.A. §940.19(1) regarding battery, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Code 1965, § 8.02(6))

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

Sec. 10-14. Possession or consumption of alcoholic beverages on highway, public property lot, or school grounds.

No person shall drink from, open a container of, or have in his possession an open container of fermented malt beverage or intoxicating liquor on a public highway including the sidewalks adjacent thereto, or on or a publicly owned or privately owned parking lot to which the public is invited, or on any school grounds within the City, except when any of the following apply:

(a) The area has been temporarily licensed for consumption of intoxicating liquor or fermented malt beverages.

(b) A person licensed to serve fermented malt beverages or intoxicating liquor who, while working as an employee of a licensed established, is carrying an open container of a fermented malt beverage or intoxicating liquor between a licensed establishment and a sidewalk café for the sole purpose of serving patrons within the sidewalk café.

(Ord 112-91, §1, 11-6-91; Ord 75-05, §1, 6-21-05)

Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; alcoholic beverages, §9-51 et seq.; streets, sidewalks and other public places, ch. 16.

Sec. 10-15. Public grounds to be vacated during certain hours.

No person shall be in or lounge about any park, parkway, school ground or other public recreation ground or place between 11:00 p.m. and 6:00 a.m., and such areas shall be closed to the public during those hours.

(Code 1965, §8.03(2))

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

Sec. 10-16. Reserved.

Editor's Note: This section, Sec. 10-16, smoking in City-owned buildings, was repealed by the Smoke Free Indoor Air Ordinance, Ord 35-05, §1, effective 7-1-05.
Sec. 10-17. Adoption of state law regarding receiving stolen property.

W.S.A. §943.34 regarding receiving stolen property, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this code.  
(Ord 98-10, §1, 7-13-10)

Sec. 10-18. Adoption of state law regarding gambling.

W.S.A. §945.04 on offenses regarding gambling, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.  
(Code 1965, §8.03(1))

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

Sec. 10-19. Adoption of state law regarding indecent conduct.

W.S.A. §944.20 regarding indecent conduct, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.  
(Code 1965, §8.03(3), Ord 29-03, §1, 2-25-03)

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

Sec. 10-20. Adoption of state law regarding prostitution.

W.S.A. §944.30 prohibiting prostitution, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.  
(Code 1965, §8.03(4))

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

Sec. 10-21. Offering or engaging in sexual contact for compensation.

(a) It shall be unlawful and prohibited for any person to pay a fee or receive a fee, directly or indirectly, or to offer or ask for anything of value, for touching or offering to touch the sexual parts of another either directly or by employing a mechanical or electrically operated device for the purpose of arousing or gratifying the sexual desire of either party.

(b) It shall be unlawful for any person owning, managing or otherwise controlling any place of business to cause or to permit any agent, employee or other person under his control or supervision to participate in conduct prohibited in subsection (a) of this section.  
(Code 1965, §8.09)

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

Sec. 10-22. Adoption of state law regarding obscene materials.

W.S.A. §948.11 regarding obscene materials, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.  
(Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 10-23. Adoption of state law regarding damage to property.

W.S.A. §943.01(1) regarding damage to property, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.  
(Code 1965, §8.04(1))

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

Sec. 10-24. Dumping, leveling of used building and fill material.

No person shall dump or leave used building or fill material on any lot within the City which cannot be leveled, and all such material which can be leveled shall be leveled. The owner of any such lot shall be responsible for removing or leveling such material.  
(Code 1965, §8.04(3))

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


(a) No person shall operate a snowmobile on any school grounds or on any public property of any kind or nature belonging to the City or its departments, or on the property of any private person without the consent of the owner.

(b) No person shall operate motor-driven cycles or motor-driven scooters such as minibikes, mopeds, go-carts, motor-driven scooters, motor-driven in-line skates or similar type vehicles on school grounds or on any public property belonging to the City or on the property of any private person without the consent of the owner.  
(Code 1965, §8.04(4); Ord 91-01, §1, 5-7-01)

Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; streets, sidewalks and other public places, ch. 16; traffic and vehicles, ch. 19.

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Sec. 10-26. Adoption of state law regarding trespass to land.

W.S.A. §943.13 regarding trespass to land, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.04(5))
Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 10-27. Adoption of state law regarding trespass to dwellings.

(a) W.S.A. §943.14 regarding trespass to dwellings, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. §943.15 regarding entry unto a construction site or into a lot, building, dwelling or room, is hereby adopted by reference and made an offense punishable as a violation of this Code.

Sec. 10-28. Adoption of state law regarding theft.

(a) W.S.A. §943.20 regarding theft, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. §943.50 regarding theft, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

Sec. 10-29. Defraud of merchant in return of merchandise.

Whoever returns merchandise to a merchant for the purpose of claiming a cash refund or credit by intentionally deceiving the merchant with a representation that such merchandise was purchased by such person from such merchant at the price claimed where such merchandise was, in fact, not purchased by such person or was not purchased from such merchant or was purchased at a price lower than the price claimed shall be guilty of a violation of this chapter. The intentional giving of a false name or address to a merchant during the return of merchandise is evidence of intent to defraud a merchant.

Sec. 10-30. Adoption of state law regarding theft of services.

(a) W.S.A. §943.45 through §943.47 regarding theft of certain services, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. §943.21 regarding fraud on hotel or restaurant keeper, taxicab operator or gas station, exclusive of any penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

Sec. 10-31. Adoption of state law regarding theft of library material.

W.S.A. §943.61 regarding theft of library material, exclusive of any penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

Sec. 10-32. Adoption of state law regarding possession of marijuana.

The provisions of W.S.A. Sec. 66.0107(1)(bm) as amended from time to time, regarding the possession of twenty-five (25) grams or less of marijuana as defined in W.S.A. Sec. 961.01(14), and subject to the exceptions in W.S.A. Sec. 961.41(3g)(intro), shall be punishable as a violation of this Code, except that any person charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana in the State of Wisconsin, shall not be charged under the paragraph.

Sec. 10-33. Possession, sale of isobutyl nitrate.

No person shall manufacture, possess, use, dispense, sell or hold for sale any isobutyl nitrate, or any compound or mixture or preparation containing significant amounts of isobutyl nitrate.

(Code 1965, §8.11)
Sec. 10-34. Adoption of state law regarding controlled substances.

(a) W.S.A. Sec. 961.573, as amended from time to time, regarding possession of drug paraphernalia, exclusive of penalties, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. Sec. 961.574, as amended from time to time regarding manufacture or delivery of drug paraphernalia, exclusive of any penalties, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(c) W.S.A. Sec. 961.575, as amended from time to time regarding delivery of drug paraphernalia to a minor, exclusive of any penalties, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Code 1965, §22.11; Ord 162-10, §1, 11-23-10)

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

Sec. 10-35. Harboring minors.

No person shall, unless duly licensed under the Wisconsin Statutes or without having first obtained the permission of the parents or legal guardian of any minor or without first notifying the City Police Department of the existence of a minor described in (1) below on premises owned or operated by or under the control of such person:

(1) By any means conceal or shelter or assist in the concealing or sheltering of any minor under the age of eighteen (18) years while the minor is under the legal custody of a parent or legal guardian and while the minor is on report with any law enforcement as a “missing person”, a “runaway” or a “wanted” person; or

(2) Supply false information to or obstruct any police officer in the performance of his duty to locate or take into custody any minor described in this Section.

(Ord 30-90, §1, 4-4-90)

Sec. 10-36. Loitering by minors.

(a) Definitions. As used in this Section:

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

Minor means any person less than eighteen (18) years of age.

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

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

(d) Penalty, minor. Any minor who violates this section shall be penalized pursuant to section 1-18(b) of this Code.

(Ord 35-92, §1, 3-18-92)

Sec. 10-37. Possession or purchase of cigarettes, nicotine, vapor, and tobacco products by persons under the age of eighteen.

(a) The provisions W.S.A. §254.92 as amended regarding the possession or purchase of cigarettes, nicotine, and tobacco products by persons under the age of eighteen (18), exclusive of any penalty contained therein, is hereby adopted by reference and made an offense punishable as a violation of this Code. It shall be unlawful for anyone under the age in which that person can possess or purchase cigarettes, nicotine, or tobacco products to possess or purchase vapor products.

(b) The provisions of W.S.A. §134.66, regarding the sale or gift of cigarettes, nicotine, or tobacco products, exclusive of any monetary penalty contained therein, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(c) Definitions. As used in this Section:

Vapor product means any noncombustible product or device, regardless of whether it contains nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce a vapor that is intended to be inhaled by the person using the product. “Vapor product” includes an electronic cigarette, electronic cigar, electronic
cigarillo, electronic pipe, or similar product or device; and any cartridge or other container of a solution or other substance, regardless of whether it contains nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(d) **Penalty.** Any person who violates this section shall be penalized pursuant to section 1-18(b).

(Ord 41-92, §1, 4-15-92; Ord 87-93, §1, 6-2-93, Ord 60-99, §1, 8-22-99, Ord 117-00, §1, 12-23-00; Ord 3-20, §1, 1-14-2020)

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

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

(b) No person shall write, spray, scratch or otherwise affix graffiti upon any property whether private or public without the consent of the owner or owners of said property. Any person who shall affix graffiti to any property without the consent of the owner shall be liable for the costs of removing or covering such graffiti in addition to any fines imposed for violating §12-31. The parents of any unemancipated minor child who affixes graffiti may be held liable for the cost of removing or covering said graffiti in accordance with W.S.A. §895.035.

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

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

(e) In the event any owner fails to comply with the above-mentioned notice, the Police Department shall have the graffiti covered or removed and all costs, fees and expenses will be assessed to such owners’ real estate taxes.

(Ord 104-92, §1, 9-16-92; Ord 124-96, §1, 12-18-96)

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

The provisions of Wisconsin Statutes §941.26 regarding chemical propellants, exclusive of any penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Ord 14-93, §1, 1-20-93; Ord 138-94, §1, 11-16-94)

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

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

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

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

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

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

(Ord 91-93, §1, 6-16-93)

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

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

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

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

(d) This section does not apply to any law enforcement officer acting in his or her official duties.

(Ord 98-94, §1, 7-20-94)

**Sec. 10-42. Reserved.**

(Ord 1-11, §1, 1-11-11; Ord 86-19, §1, 9-10-19)

**Editor’s Note:** Truancy and habitual truancy was repealed by the Common Council at the regular meeting of September 4, 2019. The repealing ordinance was published September 9, 2019 and became effective September 10, 2019.

Supp. #92
Sec. 10-43. Adoption of state law regarding contributing to truancy.

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

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

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

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

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

Sec. 10-46. Reserved.  
(Ord 123-03, §1, 7-8-03)

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

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

(a) Animals are prohibited on public property located within the Downtown District (Richmond Street to Drew Street/south side of Lawrence Street to north side of Washington Street) on the following special event days: Flag Day Parade, License to Cruise, Oktoberfest, Christmas Parade, and any day that a planned/permitted special event would close one or more blocks within the Downtown District to normal use or traffic, except by written permission from the event permit holder for special activities in accordance with the event.  
(b) Exemption to the enforcement of this chapter are dogs specially trained to lead blind or deaf persons to provide support for mobility-impaired persons, or animals to assist with emergency personnel.  
(c) Animal shall have the same meaning as set forth in Section 3-1.  
(Ord 30-03, §1, 2-11-03)

Sec. 10-48. Firearms restricted in certain City buildings.

(a) Definitions.

(1) *Firearm* means a weapon that acts by force of gunpowder.  
(2) *Law enforcement officer* means a person who is employed by a law enforcement agency as defined in Wisconsin Statutes Section 175.49(1)(f) for the purpose of engaging in, or supervising others engaging in, the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law and who has statutory powers of arrest.  
(3) *Weapon* means a handgun, an electronic weapon as defined as Wis. Stats. §941.295 (1c)(a), a knife, or a billy club.  
(b) In addition to the provisions of Wis. Stats. §175.60 enumerating places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than a law enforcement officer to enter any posted building, or portion of a posted building owned, occupied or controlled by the City of Appleton while carrying a firearm or concealed weapon.  
(c) Signs meeting the requirements of Wis. Stats. §943.13(2)(bm)1 shall be posted in prominent places near all entrances of such buildings regarding such restriction.  
(d) Any person who enters or remains in any aforementioned City building contrary to such signage shall be considered a trespasser subject to penalty as proscribed under §10-26 of this code.  
(Ord 221-11, §1, 11-1-11; Ord 39-16, §1, 3-22-16)
Sec. 10-49. Adoption of state law regarding possession of a firearm in a school zone.

W.S.A. §948.605 regarding possession of a firearm in a school zone, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this code.
(Ord 7-14, §1, 3-11-14)

Sec. 10-50. Massage therapy and bodywork therapy.

(a) For purposes of this section, the definitions set forth in W.S.A. §460.01 are hereby adopted and incorporated as part of this section.

(b) No person may violate the prohibitions under W.S.A. §460.02 unless the person is licensed as required under W.S.A. Chapter 460 as required under W.S.A. §460.02.

(c) No person may employ or contract for the services of an individual to provide massage therapy or bodywork therapy who is required to be licensed under W.S.A. §460.02 unless the individual is licensed under W.S.A. Chapter 460.

(d) Penalties. Any person who shall violate any provision of this section may be subject to a forfeiture of no more than one hundred dollars ($100) for the first offense and no more than two hundred fifty dollars ($250) for the second and subsequent offenses. Each day that a violation occurs shall be considered a separate offense.
(Ord 11-20, §1, 2-11-2020)
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Utilities

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ARTICLE I. IN GENERAL

Sec. 20-1. Utilities Committee.

The Utilities Committee shall consist of five (5) alderpersons. The alderpersons shall be appointed by the Mayor with the approval of the Common Council. A majority of the members of the Committee shall constitute a quorum. The Committee shall report directly to the Common Council and shall have jurisdiction over the operational policies for the stormwater, water and sewer utilities, subject to the rules and regulations of the Wisconsin Public Service Commission or other regulatory agencies as they may apply.

(Code 1965, §1.04(3); Ord 169-89, §1, 12-20-89; Ord 60-90, §1, 6-25-90; Ord 68-90, §1, 8-22-90; Ord 30-95, §1, 3-1-95; Ord 67-95, §1, 5-17-95; Ord 6-97, §1, 4-16-97)

Sec. 20-2. Connection to public sewers and water main required; use of privies.

(a) Connection to public water and sewer services shall be required as provided in §4-270.

(b) [Reserved]

(c) [Reserved]

(Code 1965, §7.04(5), (6); Ord 31-95, §1, 3-1-95)

Cross reference(s) – Plumbing standards 4-26 et seq.

Sec. 20-3. Sewer and water connection fee for properties not previously assessed.

No plumbing permit shall be issued authorizing a connection with the City water and sewer systems if the land to be benefited by such connection had not been specifically assessed for the water or sewer main extension in the street abutting the property for the reason that the property to be so benefited was not in the corporate limits of the City at the time the assessment was levied for the water or sewer main extensions, unless the owner thereof pays a connection fee to the City in the amount equal to the amount which the property would have been assessed on the basis of the prevailing cost for the water main and sewer main at the time connection is made computed in accordance with the special assessment policy in effect.

(Code 1965, §2.10)

Secs. 20-4 – 20-30. Reserved.
ARTICLE II. WATER UTILITY

Sec. 20-31. Penalty for violation of article.

Any person who shall violate any provision of this article shall be subject to a penalty as provided in §1-16.
(Code 1965, §12.11)

Sec. 20-32. Service limits.

(a) The limits of utility service for other than the providing of wholesale water in unincorporated areas outside the corporate limits of the City are as on file in the City Clerk’s office.

(b) This section delineates the area within which retail service will be provided, and the City Water Utility shall have no obligation to serve beyond the area so delineated.
(Code 1965, §12.12)

Sec. 20-33. Meters and access to premises.

(a) Authorized employees of the Water Utility shall have free access to any premises supplied with water, at proper times, to inspect and ascertain the condition of the meters and fixtures, or for reading meters, and no owner or occupant shall refuse such employees such access. The Water Utility shall have the right to enter any premises to remove the meter for the purpose of examination and test after first notifying the owner or occupant, and may shut off the water from the premises where free access is prevented.

(b) Remote reading devices may be installed on or in all structures supplied with water by the Water Utility. The remote reading device shall be located within or on the structure in such a way that it can be serviced and communicated with effectively. The remote reading device may not be obstructed and shall be at a readable height. Original installation shall be at the cost of the Water Utility, but any cost of defacing, vandalism or any other damage shall be charged to the owner or occupant. Water service may be discontinued for failure to comply with the requirements of this subsection.

(c) The owner of any structure supplied with water shall provide a location of adequate size for installation of a water meter. Such location shall be adequately ventilated and shall not be a manhole, pit, vault, or other confined space as defined by the Wisconsin Department of Safety and Professional Services (DSPS), or the U.S. Department of Labor Occupational Safety and Health Administration (OSHA). The owner of any meter pit or vault considered a confined space (by definition) shall be required to conform with this section at such time as any piping of structural modifications or repairs are made to the structure, within ninety (90) days of a determination that the structure is a confined space as defined by DSPS. Any additional costs incurred with reading or servicing a water meter in a confined space, including but not limited to, dewatering and confined space entry procedures, shall be billed to the customer.

(Code 1965, §12.08; Ord 133-91, §1, 11-20-91; Ord 22-20, §1, 3-24-20)

Cross reference(s) – Supervision of sewer and water services, §4-267; specifications for Water Utility use in mobile home parks, §11-75; hydrant requirements in mobile home parks §11-76.

Sec. 20-34. Authority to discontinue service.

The Water Utility shall discontinue water service on any premises where the water charge remains unpaid thirty (30) days after a statement is rendered. Where such service is discontinued, a connection charge shall be paid before service is rendered.
(Code 1965, §12.06)

Sec. 20-35. Adoption of state public safety requirements.

The provisions of Wisconsin Administrative Code, PSC 185.37(4), regarding public safety involving water, are hereby adopted by reference.

Sec. 20-36. Fluoridation of water.

The Appleton Water Treatment Facility shall introduce into water being distributed in the water supply system of the City, and include the cost in the determination of water rates. The levels of fluoride in the water supply shall be set to correspond to the lower end of the recommended range as promulgated by the United States Department of Health and Human Services, and approved by the Wisconsin Department of Natural Resources.

(Code 1965, §12.09; Ord 67-95, §1, 5-17-95 ; Ord 198-11, §1, 9-13-11)

Sec. 20-37. Tampering with equipment.

No person, without the written authority of the Water Utility manager, shall operate any valve connected with the street or supply main, or break or tamper with any seal of the water meter in service, or open any fire hydrant connected with the distribution system, whether the hydrant is the property of the City or has been placed by an owner for his own protection, except for purposes of extinguishing fire only, or wantonly injure or impair such equipment.

(Code 1965, §12.04)

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

Supp. #92
Sec. 20-38. Unauthorized connection.

(a) No person not authorized in writing by the Water Utility Manager shall tap or make any connection with any water main or distribution plan belonging to or part of the municipal water utility plant of the city.

(b) The water shall be shut off from such unauthorized tap or connection until inspection thereof has been made and any forfeiture imposed for such offense paid. Such person shall be liable for all water estimated by the Water Utility Manager to have been consumed or to have passed through such connection from the date when the connection was made up to the time such connection or tap was discovered. Charges shall be assessed against the property where the unauthorized tap was made and assessed as a special tax.

(Code 1965, §12.05)  
Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 20-39. Leakage in water pipes.

Where a leak develops in the privately owned water pipe, the Water Utility shall follow the approved water leak policy.  

(Code 1965, §12.07; Ord 23-520, §1, 3-24-20)  
Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 20-40. Use of sprinklers.

No owner or occupant of any lot or premises served by the Water Utility shall suffer, permit or allow the sprinkling of a lawn, garden or premises with water from the Water Utility servicing such lot or premises except between 5:00 p.m. and 8:00 p.m. on even-numbered days on lots and premises having even-numbered house and building numbers, and no owner or occupant shall suffer, permit or allow sprinkling of a lawn, garden or premises except between 5:00 p.m. and 8:00 p.m. on odd-numbered days on lots and premises having odd-numbered house and building numbers. The provisions of this section shall be in effect only upon proclamation of the Mayor.

(CODE 1965, §12.10)  
Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 20-41. Cross connections.

(a) Definition. A cross connection shall be defined as any physical connection or arrangement between two (2) otherwise separate systems, one (1) of which contains potable water from the City Water Utility, and the other containing water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two (2) systems.

(b) Cross connections prohibited. No person shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the City may enter the supply or distribution system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the City Water Utility and by the State Department of Natural Resources in accordance with Wisconsin Administrative Code, §NR 111.25(3).

(c) Inspections. In accordance with the Cross Connection Prevention Policy and its inspection requirements for different types of properties, it shall be the duty of the City Water Utility to inspect, to cause inspections to be made or require the submission of inspections reports from all properties serviced by the public water system where cross connection with the public water system is deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be as established by the City Water Utility and as approved by the State Department of Natural Resources. Upon inspection, if a potential cross connection involving a health hazard exists, the City Water Utility's inspector or authorized representative may order that an approved cross connection control device be installed for containment from the public water system.

(d) Right of entry. Upon presentation of credentials, the representative of the Water Utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the City for cross connections. If entry is refused, such representative shall obtain a special inspection warrant under W.S.A. §66.0119. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property.

(e) Authority to discontinue service. The Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under W.S.A. Chapter 68, except as provided in subsection (f) of this section. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this section.

(f) Emergency discontinuance of service. If it is determined by the Water Utility that a cross connection or an emergency endangers public health, safety or welfare and required immediate action, and a written finding to that effect is filed with the City Clerk and delivered to the customer’s premises, service may be immediately discontinued. The
customer shall have an opportunity for hearing under W.S.A. Chapter 68, within ten (10) days of such emergency discontinuance.
(Code 1965, §12.13, Ord 189-04, §1, 1-1-05; Ord 136-05, §1, 11-22-05)

Sec. 20-42. Private water wells.

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

**Municipal water utility** means a system for the provision to the public of piped water for human consumption when such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) year-round residents and is owned or operated by a city, village, county, town, town sanitary district, utility district or public institution as defined in W.S.A. §49.10(12)(f)(1), or a privately owned Water Utility serving any of the above.

**Noncomplying** means a well or pump installation which does not comply with the provisions of Wisconsin Administrative Code, Chapter NR 812, in effect at the time the well was constructed, a contamination source was installed, the pump was installed or work was done on either the well or pump installation.

**Pump installation** means the pump and related equipment used for withdrawing water from a well including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.

**Unsafe** means a well or pump installation which produces water which is bacteriologically contaminated or contaminated with substances in excess of the standards of Wisconsin Administrative Code, chapters NR 109 or 140, or for which a health advisory has been issued by the State Department of Natural Resources.

**Unused** means a well or pump installation which is not in use or does not have a functional pumping system.

**Well** means an excavation or opening in the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater for consumption or other use.

**Well abandonment** means the filling and sealing of a well according to the provisions of Wisconsin Administrative Code, chapter NR 810.

(b) Purpose. The purpose of this section is to prevent contamination of groundwater and to protect public health, safety and welfare by assuring that unused, unsafe or noncomplying wells which may serve as conduits for contamination or wells which may be illegally cross connected to the municipal water utility are properly abandoned.

(c) Applicability. This section applies to all wells located on premises served by the municipal water utility.

(d) Abandonment required. All wells located on premises connected to the municipal water utility shall be abandoned in accordance with the terms of this section and Wisconsin Administrative Code, chapter NR 812, or no later than one (1) month from the date of connection to the municipal water utility, whichever occurs last, unless a well operation permit has been obtained by the well owner from the City plumbing inspector.

(e) Well operation permit. The plumbing inspector may grant a permit to a private well owner to operate a well for a period not to exceed five (5) years providing the conditions of this section are met. An owner may require renewal of a well operation permit by submitting information verifying that the conditions of this section are met. The plumbing inspector may conduct inspections or have water quality tests conducted at the applicant’s expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the plumbing inspector. The following conditions must be met for issuance or renewal of a well operation permit:

1. The well and pump installation must meet or must be upgraded to meet the requirements of Wisconsin Administrative Code, chapter NR 812;

2. The well construction and pump installation must have a history of producing bacteriologically and contaminant safe water as evidenced annually by at least two (2) samplings taken a minimum of two (2) weeks apart for bacteria testing; with one (1) of these samples also requiring arsenic testing. Results must meet Department of Natural Resources requirements for maximum contaminant levels for these parameters. No exception to this condition may be made for unsafe wells, unless the State Department of Natural Resources approved, in writing, the continued use of the well;

3. For residences, there must be no cross connections between the well and pump installation and the municipal water utility. A reduced pressure backflow preventer between the two (2) systems is acceptable for industrial use if the industry has the reduced pressure backflow preventer checked by a plumber certified for such tests, on a yearly basis;
(4) The proposed use of the well and pump installation must be justified as being necessary in addition to water provided by the municipal water utility;

(5) If well water is discharged to the sanitary sewer, a meter must be installed on the line to measure flow.

(f) Abandonment procedures.

(1) All wells abandoned under the jurisdiction of this section or rule shall be abandoned according to the procedures and methods of Wisconsin Administrative Code, Chapter NR 812. All debris, pump, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.

(2) The owner of the well, or the owner’s agent, shall notify the City plumbing inspector at least forty-eight (48) hours prior to commencement of any well abandonment activities. The abandonment of the well shall be observed by the City plumbing inspector, in accordance with §4-272(c).

(3) An abandonment report form, supplied by the State Department of Natural Resources, shall be submitted by the well owner to the City plumbing inspector (who will forward a copy to the City Clerk) and the State Department of Natural Resources within ten (10) days of the completion of the well abandonment.

(g) Extension requests. The Utilities Committee may extend the time for well permitting or may grant temporary relief where strict enforcement of this section would work an unnecessary hardship without corresponding public or private benefit.

(Ord 9-91, §1, (12.14), 2-6-91; Ord 35-96, §1, 4-17-96, Ord 36-96, §1, 4-17-96, Ord 190-04, §1, 1-1-05)

Charter reference(s) – Sealing of abandoned wells § 4-271(c).
ARTICLE III. SEWERS AND WASTEWATER DISPOSAL

DIVISION 1. GENERAL PROVISIONS

Sec. 20-66. Purpose and policy.

This article sets forth uniform requirements for users of the publicly owned treatment works for the City of Appleton and enables the City to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code §1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this article are:

(1) To prevent this introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(2) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(3) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(4) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(5) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the publicly owned treatment works; and

(6) To enable the City to comply with its Wisconsin Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This article shall apply to all users of the publicly owned treatment works. This article authorizes the issuance of wastewater discharge permits; provided for monitoring, compliance and enforcement activities; establishes administrative review procedures; required user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Sec. 20-67. Administration.

Except as otherwise provided herein, the Director of Utilities shall administer, implement and enforce the provisions of this article. Any powers granted to or duties imposed upon the Director of Utilities may be delegated by the Director of Utilities to other City personnel.

Sec. 20-68. Abbreviations.

The following abbreviations, when used in this article, shall have the designated meanings:

- BOD – Biochemical Oxygen Demand
- CFR – Code for Federal Regulations
- COD – Chemical Oxygen Demand
- EPPA – U.S. Environmental Protection Agency
- gpd – gallons per day
- mg/l – milligrams per liter
- ug/l – micrograms per liter
- WPDES – Wisconsin Pollutant Discharge Elimination System
- POTW – Publicly Owned Treatment Works
- RCRA – Resource Conservation and Recovery Act
- SIC – Standard Industrial Classification
- TSS – Total Suspended Solids

Sec. 20-69. Definitions.

Unless a provision explicitly states otherwise the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

Act or “the Act”. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 et seq.

Approval authority. The secretary of the Wisconsin Department of Natural Resources.
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)
(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; Ord 72-20, §1, 5-1-20)

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.

Sec. 20-303. Title.

This ordinance shall be known as the Stormwater Management Standards and Planning Ordinance for the City of Appleton.

Sec. 20-304. Definitions.

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

Adequate sod, or self sustaining vegetative cover means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbes, sedges and duff layers of fallen leaves and woody debris.

Administering authority means a governmental employee that is designated by the City of Appleton to administer this ordinance.

Agricultural facilities and practices has the meaning given in §281.16(1), Wis. Stats.
Agricultural use means bee keeping; commercial feed-lots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least thirty-five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participation in the mile production termination program under 7 USC 1446 (d); and vegetable raising (§91.01(1), Wis. Stat.).


Average annual rainfall means a typical calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM or other methodology approved by the City. An average annual rainfall for Green Bay, 1969 (March 29-November 25) is applicable for the City of Appleton.

Business day means a day that offices of the City of Appleton are routinely and customarily open for business.

Cease and desist order means a court issued order to halt land disturbing construction activity that is being conducted without the required permit or not in conformance with an existing permit.

City means the City of Appleton.

Common plan of development or sale means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plans, certified survey maps, and other developments.

Concentrated flow channel means a channel produced by erosion from runoff, or by construction, that would not be removed by tillage operations typically needed to prepare a field for crop production.

Connected imperviousness means an impervious surface connected to the water of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.

Construction site means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Design storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall. Rainfall amounts for 24-hour design rainfall events in Appleton are: 100-year, 5.50 inches; 10-year, 3.51 inches; 5-year, 3.01 inches; 2-year, 2.45 inches, and 1-year, 2.14 inches. The distribution shall be NOAA Atlas 14 MSE4.

Development means residential, commercial, industrial or institutional land uses and associated roads.

Direct conduits to groundwater means wells, sinkholes, swallets, fractured bedrock at the surface, sand or gravel surficial deposits, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

Division of land means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5-year period.

Effective infiltration area means the area of the infiltration system devoted specifically to active infiltration, excluding areas required for site access, berms, pretreatment, or other area required for the installation, operation, or maintenance of the infiltration device.

Erosion means the process by which the land’s surface is worn away by the action of the wind, water, ice or gravity.

Exceptional resource waters means waters listed in s. NR 102.11, Wisconsin Administrative Code.

Existing land use condition means the condition of the development site and the adjacent properties that are present at the time of the stormwater permit application.

Extraterritorial means the unincorporated area as defined in Ch. 236, Wis. Stat.

Fee in lieu means a payment of money to the City of Appleton in place of meeting all or part of the stormwater performance standards required by this ordinance.

Filtering layer means soil that has at least a 3-foot deep layer with at least twenty percent (20%) fines; or at least a five-(5-) foot deep layer with at least ten percent (10%) fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least seventy percent (70%) of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent
permanent stabilization measures.

*Financial guarantee* means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Appleton by the responsible party to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.

*Governing body* means the Common Council of the City of Appleton.

*Impervious surface* means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. rooftops, sidewalks, driveways, parking lots, and streets are examples of surfaces that typically are impervious. gravel surfaces are considered impervious unless specifically designed for infiltration.

*In-fill* means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur.

*Infiltration* means the entry of precipitation or runoff into or through the soil.

*Infiltration system* means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns, or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

*Land disturbing construction activity* means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in stormwater runoff and lead to increased soil erosion and movement of sediment into waters of the state. land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, parking lot reconstruction, but does not include parking lot resurfacing.

*Land user* means any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

*Landowner* means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of stormwater SMPs on the property.

*Major Stormwater Management Plan* means a Stormwater Management Plan for a subdivision or a plan that proposes the use of one or more devices to meet standards or a non-one or two family site that is not considered a Minor Stormwater Management Plan.

*Maintenance agreement* means a legal document that is filed with the County Register of Deeds as a property deed restriction, and that provides for long-term maintenance of stormwater management practices.

*Maximum extent practicable (MEP)* has the meaning given in s. NR 151.002(25), Wis. Adm. Code.

*Minor Stormwater Management Plan* means a Stormwater Management Plan for a site that has a regional stormwater facility in place that meets applicable standards, has a 100-year event conveyance system to the regional facility in place, and is free from unusual conditions, including but not limited to, contamination, critical site designation, change in land use, high impervious ratio, or floodplain.

*Natural wetlands* means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and that has soils indicative of wet conditions. These wetlands include existing, mitigated, and restored wetlands.

*New development* means development resulting from the conversion of previously undeveloped land or agricultural land uses.

*Non-structural measure* means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants, in stormwater that does not require the design or installation of fixed stormwater management facilities.

*NRCS* means the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA) formerly known as the SCS (Soil Conservation Service of the USDA).

*NRCS MSE4 distribution* means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.

*Off-site* means lands located outside the subject property boundary described in the permit application.

*On-site* means lands located within the subject property boundary described in the permit application.

*Ordinary high-water mark* has the meaning in s. NR 115.03(6), Wisconsin Administrative Code.

*Outstanding resource waters* means waters listed in s. NR 102.10, Wisconsin Administrative Code.
Parking lot reconstruction means removing asphalt to the base course by milling or other construction methods.

Parking lot resurfacing means removing a portion of an asphalt surface but leaving at least one inch (1”) thickness of asphalt surface in place.

Peak flow or peak flow discharge rate means the maximum rate that a unit volume of stormwater is discharged. This is usually expressed in terms of cubic feet per second (cfs).

Percent fines means the percentage of a given sample of soil, that passes through a Number 200 sieve, in accordance with the “American Society for Testing and Materials”, current standard.

Performance security means cash or an irrevocable letter of credit submitted to the City of Appleton by the permit holder to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan and to recover any costs incurred by the City for design, engineering, preparation, checking and review of plans and specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance.

Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the City of Appleton to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Permit application fee means a sum of money paid to the City of Appleton by the permit applicant for the purpose of recouping expenses incurred by the City in administering the permit.

Pervious surface means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests, or other similar vegetated areas are examples of surfaces that typically are pervious.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water as described in §283.01(13), Wis. Stat.

Pollution has the meaning in §281.01(10), Wis. Stat.

Post-construction site means a construction site following the completion of land disturbing construction activity and final site stabilization.

Post-development land use condition means the extent and distribution of land cover types, anticipated to occur under conditions of full development or redevelopment that will influence runoff and infiltration.

Pre-development condition means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Pre-treatment is the practice of reducing pollutants in stormwater before discharging the stormwater to another pollution control structure.

Preventive action limit has the meaning in s. NR 140.05(17), Wisconsin Administrative Code.

Protective area means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that it is the greatest of the widths as listed in Sec. 20-312(g) of this code, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.

Redevelopment means areas where development is replacing older development.

Residential land development means development that is created to house people, including the residential dwellings as well as all affected portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single-family, multi-family, apartment and trailer parks.

Responsible party means any person holding fee title to the property or other entity contracted or obligated by other agreement to implement and maintain post-construction stormwater SMPs, or other requirements of this ordinance.

Runoff means stormwater or precipitation including rain, snow, or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Runoff Curve Number or RCNs means an index that represents the combination of: a hydrologic soil group, land use, land cover, impervious area, interception storage, surface storage, and antecedent moisture conditions. RCNs convert mass rainfall into mass runoff. The Natural Resources Conservation Service of the USDA defines RCNs in TR-55.

Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its origination location.
Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels, or storm drains, which meets all of the following criteria:

(a) Is designed or used for collecting water or conveying runoff.

(b) Is not part of a combined sewer system.

(c) Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

(d) Discharges directly or indirectly to waters of the state.

Silviculture activity means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application or has occurred.

Stop work order means an order issued by the City of Appleton that requires all construction activity on the site be stopped.

Stormwater conveyance system means any method employed to carry stormwater runoff within and from a land development or redevelopment activity to the waters of the state. Examples of methods include: swales, channels, and storm sewers.

Stormwater management measure means structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes and/or peak flow discharge rates.

Stormwater management plan means a comprehensive plan provided by the land developer, land owner or permit holder that identifies the measure to be taken to reduce the discharge of pollutants from stormwater, and control the peak flow and volume of runoff after the site has undergone final stabilization, following completion of construction activity.

Stormwater Management Practice or SMP means structural or non-structural measures, practices, techniques, or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

Stormwater management system plan is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

Targeted performance standard means a performance standard that applies in a specific area that requires additional practices to meet water quality standards.

Technical standard means a document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method.

Top of the channel means an edge or point on the landscape landward from the ordinary high water mark of a surface water of the state, where the slope of the land begins to be less than twelve percent (12%) continually for at least fifty (50) feet. If the slope of the land is 12 percent (12%) or less continually for the initial fifty (50) feet landward from the ordinary high water mark, the top of the channel is the ordinary high water mark.

Total maximum daily load or TMDL means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

TP means total phosphorus.


Transportation facility means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail, and also includes any other public work for transportation purposes such as harbor improvements under §85.095(1)(b), Wis. Stat. “Transportation Facility” does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to §281.33, Wis. Stat.

TSS means total suspended solids.

Type II distribution means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”.

Waters of the state has the meaning in §283.01(20), Wis. Stat.

WDNR means the Wisconsin Department of Natural Resources.
**UTILITIES**

**WPDES permit** means a Wisconsin Pollutant Discharge Elimination System permit issued pursuant to Ch. 283, Wis. Stat.

**Wetland functional value** means the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation and education.

(Ord 188-03, §1, 10-21-03; Ord 66-10, §1, 4-13-10; Ord 156-11, §1, 1-1-12; Ord 42-16, §1, 5-1-16; Ord 72-20, §1, 5-1-20)

**Secs. 20-305 – 20-310. Reserved.**

**DIVISION 2. STORMWATER MANAGEMENT**

**Sec. 20-311. Applicability and jurisdiction.**

(a) **Applicability.** This ordinance applies to all post-construction land development, redevelopment, and in-filling sites with one (1) acre or more of land disturbing construction activities, except:

(1) A post-construction site with less than ten percent (10%) connected imperviousness of the total area based on area of land disturbance, provided the cumulative area of all parking lots, roads, and rooftops is less than one (1) acre. However, the exemption of this paragraph does not include exemption from the protective area standards of this ordinance.

(2) Agricultural facilities and practices.

(3) Nonpoint discharges from silviculture activities.

(4) Underground utility construction such as water, sewer, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

Notwithstanding these applicability requirements, this ordinance applies to any post-construction site of any size that, in the opinion of the City of Appleton, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or other pollutants, or that endangers property or public safety.

(b) **Jurisdiction.** This ordinance applies to post-construction land development and redevelopment sites within the boundaries of the City of Appleton and to all lands located within three (3) miles of the corporate limits pursuant to the City’s extraterritorial plat approval jurisdiction as set forth in §236.45(2), Wis. Stat., even if plat approval is not involved.

(c) **County and town ordinances.** This ordinance supersedes any county or town stormwater management ordinance for lands annexed to the City after the effective date of the county or town ordinance, except when the county or town ordinance is more restrictive than this ordinance; then the more restrictive provisions set forth in the county or town ordinance shall become part of this ordinance and apply to the annexed lands. In such cases, the City may grant a variance from the more restrictive requirements, provided that the criteria for a variance as set forth in the county or town ordinance is met.
(d) **State agency.** This ordinance is not applicable to activities conducted by a state agency, as defined under §227.01(1), Wis. Stat., and the office of the district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under §281.33(2), Wis. Stat.

(e) **Waivers.** Requests to waive the stormwater management plan requirements shall be submitted to the City of Appleton for approval. Written waivers may be granted administratively by the City for stormwater requirements that are required only by the City if it is demonstrated to the satisfaction of the City that it is reasonable to expect that the objectives of this ordinance will be met by the proposed post-construction land development and redevelopment activity without a stormwater management plan or portion thereof.

(f) **Applicability of maximum extent practicable.** Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City’s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16; Ord 72-20, §1, 5-1-20)

**Sec. 20-312. Performance standards.**

Unless otherwise provided for in this ordinance, all post-construction land development, redevelopment, and in-filling activities subject to this ordinance shall establish on-site management practices to control the peak flow rates of stormwater discharged from the site, the quality of the discharged stormwater, and the volume of the discharged stormwater as described in this ordinance. Technical standards identified, developed, or disseminated by the WDNR under subchapter V of Chapter NR 151, Wisconsin Administrative Code, shall be used. Where technical standards have not been identified or developed by the WDNR, other technical standards may be used provided that the methods have been approved by the City of Appleton. The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.

Exceptions to these standards are listed in Sec. 20-312(l) of this ordinance.

(a) **Maintenance of effort.** For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this ordinance, whichever is more stringent.

For non-highway transportation facility redevelopment sites and highway reconstruction where the redevelopment or reconstruction will be replacing older development or highway that was subject to post-construction performance standards of this chapter in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or highway, or meet the redevelopment or highway reconstruction standards of (d) – (m) of this section, whichever are more stringent.

(b) **Off-site drainage.** When designing stormwater management practices for (d), (e), and (f) of this section, runoff draining to the stormwater management practices from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the SMP accordingly.

(c) **Separation distances.** Stormwater management practices shall be adequately separated from wells to prevent contamination of drinking water, and the following minimum separation distances shall be met:

1. Stormwater infiltration systems and ponds shall be located at least 400 feet from a well serving a community water system unless the Wisconsin Department of Natural Resources concurs that a lesser separation distance would provide adequate protection of a well from contamination.

2. Stormwater management practices shall be located with a minimum separation distance from any well serving a non-community or private water system as follows:

   i. 25 feet to the edge of a stormwater detention pond or basin.

   ii. 100 feet for a stormwater infiltration basin or system.

   iii. 8 feet to a stormwater culvert or edge of a ditch that is not a river or stream.

(Ord 72-20, §1, 5-1-20)
(d) **Peak discharge**

(1) The proposed post-construction land use shall not increase peak flow rates of stormwater runoff from that which would have resulted from the same design storm occurring over the site with the land in its pre-development, woodland condition, as defined in Table 1 of this ordinance for storms of twenty-four (24) hour duration and recurrence intervals of one (1), two (2), five (5), ten (10), and one hundred (100) years. Appropriate curve numbers, as described in TR-55 and weighted based on the proposed land cover, shall be used in TR-55 calculations. The composite RCNs as defined in TR-55 should not be used.

<table>
<thead>
<tr>
<th>Runoff Curve Number</th>
<th>Hydrologic Soil Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td>Woodland</td>
<td>30</td>
</tr>
<tr>
<td>Grassland</td>
<td>39</td>
</tr>
<tr>
<td>Cropland</td>
<td>55</td>
</tr>
</tbody>
</table>

Table 1

Maximum Pre-Development Runoff Curve Numbers

Where the pre-development condition is a combination of the Table 1 land uses, the runoff curve number shall be weighted based on area of land cover.

(2) All stormwater conveyance systems within the post-construction site shall be designed to completely contain the peak storm flows as described herein. Calculations for determining peak flows for conveyance system sizing shall use RCNs based on the existing or future proposed land use for off-site areas (whichever results in the highest peak flows), and the proposed land use for on-site areas.

a. For open channel conveyance systems the peak flow from the 100-year, 24-hour storm shall be completely contained within the channel bottom and banks.

b. For storm sewer conveyance systems the peak flow from the 5-year storm shall be completely contained within the storm sewers with no surcharging.

c. For storms greater than the five- (5-) year event, and up to the 100-year, 24-hour event, conveyance of flow to the appropriate waters of the state shall be within existing or proposed street right-of-ways or recorded drainage easements. In no case shall the depth of water exceed twelve (12) inches at the outer edge of pavement or six (6) inches at the road crown, whichever is less.

d. The 100-year storm runoff flow path outside of the storm sewer conveyance system must not impact structural improvements on property.

e. Existing flow onto the site cannot be restricted or modified to impact adjacent properties without a written agreement between property owners.

(3) Determination of peak flow rates and volume of runoff for purposes of meeting the requirements of Sec. 20-312(d)(1) of this ordinance shall be computed by procedures based on the principals and procedures described in TR-55. Other proposed calculation methods must have prior written approval of the City of Appleton.

(4) The rainfall distributions for the storm events shall be NOAA Atlas 14 MSE4, unless otherwise approved by the City of Appleton. On a case-by-case basis, the City of Appleton may allow the use of TP-40 precipitation depths and the Type II distribution.

(5) Existing wetlands shall not be incorporated in the proposed stormwater management practice for peak flow control. Peak flow shall be managed prior to discharge to an existing wetland. Should any changes to natural wetlands be proposed, the impact of the proposal on wetland functional values shall be assessed and significant changes to wetland functional values shall be avoided (as defined by s. NR 103, Wisconsin Administrative Code).

(6) Peak stormwater discharge reductions do not apply for a site meeting any one of these requirements:

a. Redevelopment post-construction sites less than five (5) acres in size.

b. In-fill development areas less than five (5) acres in size.

c. Sites that directly discharge to the Fox River without flowing over or through a municipally owned separate storm sewer or stormwater conveyance system.

d. A transportation facility that is part of a redevelopment project.
e. A highway reconstruction site.  
(Ord 72-20, §1, 5-1-20)

(e) Stormwater discharge quality. Unless otherwise provided for in this ordinance, all post-construction land development and redevelopment activities subject to this ordinance shall establish on-site management practices to control the quality of stormwater discharged from the post-construction site. On-site management practices shall be used to meet the following minimum standards:

(1) Total suspended solids (TSS). SMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

a. For new development and new transportation facilities, by design, reduce to the maximum extent practicable, the total suspended solids load by eighty percent (80%), based on the average annual rainfall, as compared to no runoff management controls.

b. For redevelopment less than five (5) acres of disturbed land and highway reconstruction, by design, reduce to the maximum extent practicable, the total suspended solids load by forty percent (40%), based upon the average annual rainfall, as compared to no runoff management controls.

c. For redevelopment five (5) acres or greater of disturbed land, reduce to the maximum extent practicable, the total suspended solids load by eighty percent (80%), based on the average annual rainfall, as compared to no runoff management controls.

d. For in-fill development by design, reduce to the maximum extent practicable, the total suspended solids load by eighty percent (80%), based on the average annual rainfall, as compared to no runoff management controls.

e. For non-highway transportation facility redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40% based on average annual rainfall as compared to no runoff management controls.

(2) Total phosphorus (TP). All new development, redevelopment, and infill sites shall calculate the total phosphorus load and the amount of phosphorus removed with the proposed on-site practices with an appropriate computer model. Both the load and the amount of removal shall be reported in the plan narrative and included in the computer model submitted for the project.

(f) Infiltration. Unless otherwise provided for in this ordinance, all post-construction land development and redevelopment sites subject to this ordinance shall design, install, and maintain on-site stormwater management practices to infiltrate runoff in accordance with the following, to the maximum extent practicable.

(1) Low imperviousness. For development up to 40 percent (40%) connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent (90%) of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent (1%) of the post-construction site is required as an effective infiltration area.

(2) Moderate imperviousness. For development with more than forty percent (40%) and up to eighty percent (80%) connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least seventy-five percent (75%) of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent (2%) of the post-construction site is required as an effective infiltration area.

(3) High imperviousness. For development with more than eighty percent (80%) connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least sixty percent (60%) of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to
meet this requirement, no more than two percent (2%) of the post-construction site is required as an effective infiltration area.

(4) **Pre-development.** The pre-development condition shall be as specified in Table 1.

(5) A model that calculates runoff volume, such as WinSLAMM or other methodology approved by the City shall be used. Other models may be used with prior written approval of the City.

(6) Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial, and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance in accordance with Sec. 20-314 of this ordinance.

Pretreatment may include, but is not limited to, oil/grease separation, sedimentation, biofiltration, filtration, treatment swales or filter strips. It is desirable to infiltrate the cleanest runoff to meet the infiltration standard. To achieve this, the design may propose greater infiltration of runoff from some sources such as roofs, and lesser from dirtier sources such as parking lots.

(7) For the purpose of this section, turf grass swales are not counted towards the one percent (1%) or two percent (2%) infiltration areas described in subsections (1) and (2).

(8) **Source areas.**

a. **Prohibitions.** Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions identified in Sec. 20-312(f)(11):

i. Areas associated with a tier 1 industrial facility identified in s. NR 216.21(2)(a), Wisconsin Administrative Code, including storage, loading and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.

ii. Storage and loading areas of a tier 2 industrial facility identified in s. NR216.21(2)(b), Wisconsin Administrative Code.

NOTE TO USERS: Runoff from the employee and guest parking and rooftop areas of a tier 2 facility may be infiltrated but runoff from the parking area may require pretreatment.

iii. Fueling and vehicle maintenance areas. Runoff from rooftops and fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.

b. **Exemptions.** Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:

i. Parking areas and access roads less than 5,000 square feet for commercial development.

ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the prohibitions under par a.

iii. Redevelopment post-construction sites, except as provided under Sec. 20-312(a), Maintenance of effort.

iv. In-fill development areas less than five (5) acres.

v. Roads on commercial, industrial and institutional land uses, and arterial residential roads.

vi. Transportation facility highway reconstruction and new highways.

(9) **Location of practices.**

a. **Groundwater limitations.** When permanent infiltration systems are used, appropriate on-site testing shall be conducted to determine if seasonal high groundwater elevation or top of bedrock is within five (5) feet of the bottom of the proposed infiltration system.

b. **Prohibitions.** Infiltration practices may not be located in the following areas:

i. Areas within 1,000 feet upgradient or
within 100 feet downgradient of direct conduits to groundwater.

ii. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wisconsin Administrative Code or within the separation distances listed in s. NR 812.08, Wisconsin Administrative Code for any private well or non-community well for runoff infiltrated from commercial, including multifamily residential, industrial and institutional land uses, or regional devices for one- and two-family residential development.

iii. Areas where contaminants of concern, as defined in s. NR 720.03 (2), Wisconsin Administrative Code, are present in the soil through which infiltration will occur.

c. Separation distances.

i. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 2.

Table 2
Separation Distances and Soil Characteristics

<table>
<thead>
<tr>
<th>Source Area</th>
<th>Separation Distance</th>
<th>Soil Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial, Commercial, Institutional Parking Lots and Roads</td>
<td>5 feet or more</td>
<td>Filtering layer</td>
</tr>
<tr>
<td>Residential Arterial Roads</td>
<td>5 feet or more</td>
<td>Filtering layer</td>
</tr>
<tr>
<td>Roofs Draining to Subsurface Infiltration Practices</td>
<td>1 foot or more</td>
<td>Native or Engineered soil with particles finer than coarse sand</td>
</tr>
<tr>
<td>Roofs Draining to Surface Infiltration Practices</td>
<td>Not applicable</td>
<td>Not applicable</td>
</tr>
<tr>
<td>All Other Impervious Source Areas</td>
<td>3 feet or more</td>
<td>Filtering Layer</td>
</tr>
</tbody>
</table>

ii. Notwithstanding par. b., applicable requirements for injection wells classified under ch. NR 815, Wisconsin Administrative Code shall be followed.

d. Infiltration rate exemptions. Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is at the Developer’s option:

i. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.

ii. Where the least permeable soil horizon to five (5) feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.

(10)Alternate use. Where alternate uses of runoff are employed, such as for toilet flushing, laundry, or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this section.

(11)Groundwater standards.

a. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with s. NR 140, Wisconsin Administrative Code. However, if site-specific information indicates that compliance with a preventive action limit is not achievable, the infiltration SMP shall not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

b. Notwithstanding paragraph (a), the discharge from SMPs shall remain below
(g) **Protective areas.** Protective area means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the widths described below, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, protective area does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

(1) Protective areas are:

a. For outstanding resource waters and exceptional resource waters, seventy-five (75) feet.

b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, fifty (50) feet.

c. For lakes, 50 feet.

d. For wetlands not subject to par. e. or f., 50 feet.

e. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.

f. For less susceptible wetlands, ten percent (10%) of the average wetland width, but no less than ten (10) feet nor more than thirty (30) feet. Less susceptible wetlands include: degraded wetland dominated by invasive species such as reed canary grass; cultivated hydric soils, and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

g. In pars. d. to f., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03, Wisconsin Administrative Code.

h. Wetland boundary delineation shall be made in accordance with s. NR 103.08(1m), Wisconsin Administrative Code. This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

i. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

j. Notwithstanding pars. a. to i., the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.

(2) This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to sub. 5.

(3) The following requirements shall be met:

a. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining native vegetative cover of seventy percent (70%) or greater shall be established and maintained. The self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

c. Stormwater management practices such as filter strips, treatment swales, or wet detention basins, that are designed to control pollutants from nonpoint sources
may be located in the protective area.

(4) A protective area established or created after the adoption date of this ordinance shall not be eliminated or reduced, except as allowed in subd. (5)b., c., or d below.

(5) Protective areas do not apply to:

a. Redevelopment post-construction sites, including non-highway transportation redevelopment sites, provided the minimum requirements within subd. (4) above are satisfied.

b. Structures that cross or access surface waters such as boat landings, bridges and culverts.

c. Structures constructed in accordance with §59.692(1v), Wis. Stat.

d. Post-construction sites, including transportation facilities, from which runoff does not enter the surface water, including wetlands, without first being treated by a SMP, except to the extent that vegetative ground cover is necessary to maintain bank stability.

e. Infill development less than five (5) acres. (Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16; Ord 72-20, §1, 5-1-20)

(h) Fueling and vehicle maintenance areas. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have SMPs designed, installed, and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen. A combination of the following SMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

(1) This ordinance applies to:

a. New fueling and vehicle maintenance areas approved after the effective date of this ordinance.

b. Any modifications to existing fueling and vehicle maintenance areas regardless of the size of the disturbed area. SMPs installed as part of a site modification shall, to the maximum extent practicable, be designed and operated to treat all stormwater leaving the site so that the stormwater contains no visible petroleum sheen.

c. Transportation and non-highway transportation sites.

(2) A stormwater management plan per Sec. 20-313 of this ordinance, a maintenance agreement per Sec. 20-314 of this ordinance and a stormwater permit per Sec. 20-321 of this ordinance are required.

(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16; Ord 72-20, §1, 5-1-20)

(i) General considerations for stormwater management measures. The following considerations shall be observed in on-site and off-site runoff management.

(1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

(2) Overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(3) Overland flow paths from adjoining properties to an offsite facility must be maintained.

(4) Low impact development techniques and green infrastructure should be included to the extent possible. These techniques include but are not limited to: increasing the time of concentration by lengthening the flow path and increasing the roughness of the flow path, using native, deep rooted vegetation instead of turf grasses and deep tilling onsite compacted soil.

(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16; Ord 72-20, §1, 5-1-20)

(j) Location and regional treatment option.

(1) The SMPs may be located on-site or off-site as part of a regional stormwater device, practice or system, but shall be installed in accordance with s. NR 151.003 Wisconsin Administrative Code.

(2) Post-construction runoff within a non-navigable surface water that flows into a SMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction SMPs may be located in non-navigable surface waters.
(3) Post-construction runoff shall meet the post-construction performance standards prior to entering navigable surface water.

   a. To the maximum extent practicable, SMPs shall be located to treat runoff prior to discharge to navigable surface waters.

   b. Post-construction SMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as s. NR 103, Wisconsin Administrative Code and Chapter 30, Wis. Stat.

(4) The City of Appleton may approve off-site management measures provided that all of the following conditions are met:

   a. The post-construction runoff is covered by a stormwater management system plan that is approved by the City of Appleton and that contains management requirements consistent with the purpose and intent of this ordinance.

   b. The off-site facility meets all of the following conditions:

      i. The facility is in place.

      ii. The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.

      iii. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

      iv. Permittee must demonstrate that the proposed post-construction land development or redevelopment activity has received permission to use the off-site facility.

      v. Permittee must also demonstrate the flow path to the off-site facility will not result in negative impacts to structural improvements on the property.

      vi. Permittee must provide easements of all overland flow paths up to and including the overland flow path of the 100-year storm.

(5) Where a regional treatment option exists such that the City of Appleton exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant may be required to pay a one-time fee in an amount determined by the City of Appleton. In determining the fee for post-construction runoff, the City may consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(6) The discharge of runoff from a SMP, such as a wet detention pond, or after a series of such SMPs, is subject to this ordinance.

(Ord 72-20, §1, 5-1-20)

(k) Additional requirements. The City of Appleton may establish stormwater management requirements more stringent than those set forth in this ordinance if the City determines that the requirements are needed to control stormwater quantity or control flooding, comply with federally approved total maximum daily load requirements, or control pollutants associated with existing development or redevelopment.

   (l) Swale treatment for transportation facilities.

   (1) Applicability. Except as provided in Sec. 20-312(i)(2) of this ordinance, transportation facilities that use swales for runoff conveyance, pollutant removal and infiltration meet the stormwater discharge quality requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

      a. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams. It is preferred that tall and dense vegetation be maintained within the swale because of its greater effectiveness at enhancing runoff pollutant removal.

      b. Swales shall comply with sections V.F. (Velocity and Depth) and V.G. (Sale Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 “Vegetated Infiltration Swales”, dated May 2007, or a superseding
document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.

(2) Other requirements.

a. The City of Appleton may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with average daily traffic of vehicles greater than two thousand five hundred (2,500) per day and where the initial surface water of the state that the runoff directly enters is any of the following:

i. An outstanding resource water.

ii. An exceptional resource water.

iii. Waters listed in s. 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, because of nonpoint source impacts.

iv. Waters where targeted performance standards are developed under s. NR 151.004, Wisconsin Administrative Code, to meet water quality standards.

b. The transportation facility authority shall contact the City to determine if additional SMPs beyond a water quality swale are needed under this subsection.

(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16; Ord 72-20, §1, 5-1-20)

(m) Innovative stormwater management systems that do not meet Sec. 20-312(d), (e) or (f) of this ordinance must be reviewed and accepted by the City before installation.

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

Sec. 20-313. Stormwater management plans.

(a) Plan requirements.

(1) The stormwater management plan required under Sec. 20-321 of this ordinance shall contain any such information the City of Appleton may need to evaluate the characteristics of the area affected by land development and redevelopment activities, the potential impacts of the proposed activity upon the quality and quantity of stormwater discharges, the potential impacts upon water resources and drainage systems and the effectiveness and acceptability of proposed stormwater management measures in meeting the performance standards set forth in this ordinance.

(2) All initial and final site investigations, plans, designs, computations and drawings for stormwater management measures and plans submitted for review shall be stamped by a professional engineer registered in the State of Wisconsin and be prepared in accordance with accepted engineering practice and in accordance with criteria set forth by the City of Appleton.

(b) Minimum content. The stormwater management plan shall contain at a minimum the following information:

(1) Name, address and telephone number for the following and their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of stormwater management practices; and person(s) responsible for maintenance of stormwater management practices prior to the transfer, if any, of maintenance responsibility to another party.

(2) A proper legal description of the property proposed to be developed in Outagamie County Coordinate System and referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(3) Pre-development site conditions, including:

a. One or more site maps of current site conditions at a scale of not less than one (1) inch equal one hundred (100) feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all stormwater conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100-year floodplain; location of wells and wellhead...
protection areas covering the project area and delineated pursuant to s. NR 811.16, Wisconsin Administrative Code.

b. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

e. Results of investigations of soil and groundwater required for the placement and design of stormwater management measures.

f. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment practices.

(4) Post-construction site conditions, including:

a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.

b. Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protection plans and ordinances.

c. One or more site maps at a scale of not less than one (1) inch equals one hundred (100) feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures and pavement; post-construction topographic contours of the site; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all stormwater conveyance sections; location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site.

d. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

(5) A description and installation schedule for the stormwater management practices needed to meet the performance standards in Sec. 20-312 of this ordinance.

(6) A maintenance plan and inspection report form developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule.

(7) An explanation of the technical basis used to select the stormwater management practices.

(8) If maximum extent practicable is requested for any of the requirements of this ordinance, the plan shall include a written, site-specific explanation of why the standard cannot be met.

(9) Other information requested in writing by the City of Appleton to determine compliance of the proposed stormwater management measures with the provisions of this ordinance.

(Ord 72-20, §1, 5-1-20)

(c) **Alternate requirements.** The City of Appleton may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Secs. 20-312(d), (e) or (f) of this ordinance.

(d) **Modifications.** When a change in land use or stormwater management practice occurs at a site with an approved stormwater management plan, a modified stormwater management plan must be submitted to the City for review and approval before those changes in practice occur. Plan modifications shall be modeled in the latest version of WinSLAMM unless otherwise approved by the City.

(Ord 188-03, §1, 10-21-03; Ord 66-10, §1, 4-13-10, Ord 42-16, §1, 5-1-16, Ord 72-20, §1, 5-1-20)
Sec. 20-314. Maintenance agreement.

(a) Maintenance agreement required. The maintenance agreement required for stormwater management practices under Sec. 20-321(b) of this ordinance shall be an agreement between the City of Appleton and the responsible party to provide for perpetual maintenance of stormwater practices. The agreement shall be recorded with the appropriate (Outagamie, Winnebago, or Calumet) County Register of Deeds, as a property deed restriction so that it is binding upon all subsequent owners of land served by the stormwater management practices.

(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

(b) Agreement provisions. The responsible party shall maintain stormwater management practices in accordance with the stormwater practice maintenance provisions contained in the approved stormwater management plan submitted under Sec. 20-321(b) of this ordinance. This maintenance agreement includes:

(1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.

(2) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan as required under Sec. 20-321 of this ordinance.

(3) Identification of the responsible party(ies), organization or city, county, town or village responsible for long-term maintenance of the stormwater management practices identified in the stormwater management plan as required under Sec. 20-321 of this ordinance.

(4) Requirement that the responsible party(ies), organization(s), or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in Sec. 20-314(b)(2) of this ordinance.

(5) Authorization for the City of Appleton to access the property to conduct inspections of stormwater practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan. The City of Appleton shall maintain public records of the results of the site inspections, shall inform the responsible party for maintenance of the inspection results and shall specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition and a reasonable time frame during which the corrective action must be taken.

(6) Authorization for the City of Appleton to perform the corrected actions identified in the inspection report if the responsible party does not make the required corrections in the specified time period. The City of Appleton shall charge the responsible party(ies) identified in the maintenance agreement for the cost of such work and shall place a lien on the property by the City of Appleton, which may be collected as special charges pursuant to subchapter VII, §66(16).

(c) Modification of agreement. This maintenance agreement may be modified by mutual agreement of the responsible party and the City of Appleton. The modification date shall be the date the modified maintenance agreement is recorded with the appropriate (Outagamie, Winnebago, or Calumet) County Register of Deeds, as a property deed restriction so that the modified agreement is binding upon all subsequent owners of the land served by the stormwater management practices.

The maintenance agreement shall be modified when there are changes in land use or stormwater management practices at the site. The modified plan shall be submitted and approved by the City before changes in practices occur.

(Ord 66-10, §1, 4-13-10)

(d) Long term maintenance stormwater management report.

(1) Every property owner that has been granted a stormwater management permit, constructed on-site stormwater management practices and signed and recorded the required maintenance agreement, shall submit to the Director of Public Works a report on the condition of the site’s stormwater management devices and a certification that the SMPs are functioning per the approved plan.

(2) Owners shall be notified by the City of the requirements and the deadline for reporting.

The report and certification shall be completed and sealed by a Professional Engineer currently licensed in the State of Wisconsin, on forms provided by the City.

(3) The requirement that the report and certification be sealed by a Professional Engineer may be omitted in the case of a stormwater management plan consisting solely of storm sewer inlet filters and/or catch basin sumps, provided that the applicant can provide the
appropriate documentation of cleaning activities and dated photos.

(4) For sites with more extensive stormwater management systems, the requirements may include, but are not limited to:

a. Photos of the management device at the time of inspection. This shall include photos of existing conditions and photos after the completion of any required maintenance.

b. Bathometric survey.

c. Topographic survey.

d. Infiltration testing.

e. Completed inspection forms.

f. Documentation of the completion of the required annual maintenance, including copies of receipts (actual prices paid need not be reported) from agents hired to perform the work and the date the work was completed.

(5) Upon receipt of the report and certification, if requested on the cover letter accompanying the report or by separate email, City Engineering staff shall provide an email response to the contact listed on the reporting forms stating that the report was received. This response from the City shall be made within 20 workings days of receiving the report.

(Ord 72-20, §1, 5-1-20)

(e) Termination of agreement. The maintenance agreement shall be terminated at such time that responsibility for maintenance of the stormwater management practice is legally transferred to the City of Appleton or agency acceptable to the City of Appleton, through a written, binding agreement. The termination date of the maintenance agreement required under Sec. 20-314(a) of this ordinance shall be the date upon which the legal transfer of maintenance responsibility to the City of Appleton or agency is made effective.

(Ord 188-03, §1, 10-21-03; Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16; Ord 72-20, §1, 5-1-20)

DIVISION 3. PERMITTING AND FEES

Sec. 20-321. Permitting requirements, procedures, and fees.

(a) Permit required. No responsible party may undertake a land disturbing construction activity except One- and Two-family residential lots, without receiving a post-construction runoff permit from the City of Appleton prior to commencing the proposed activity.

(b) Permit application and fee. Unless specifically excluded by this ordinance, any responsible party desiring a permit (permit holder) shall submit to the City of Appleton a permit application made on a form provided by the City of Appleton for that purpose.

(1) Unless otherwise excepted by this ordinance, a permit application must be accompanied by a stormwater management plan, grading plan, utility plan, landscape plan, non-refundable permit review fee and an operation and maintenance plan and agreement as set forth in Table 3. The initial submittal and the final approved plan shall be stamped by an engineer licensed in the State of Wisconsin in a hard copy format.

Table 3

<table>
<thead>
<tr>
<th>Land Development Activity</th>
<th>Permit</th>
<th>Stormwater Mgmt Plan</th>
<th>Grading &amp; Drainage Plan</th>
<th>Maintenance Agrm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural Use</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Non-Residential</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>1 &amp; 2 Family Residential on 1 acre or greater lot</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>--</td>
</tr>
<tr>
<td>Multi-Family Residential</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Subdivision Development</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

(2) The stormwater management plan shall be prepared to meet the requirements of Sec. 20-313 of this ordinance and the maintenance agreement shall be prepared to meet the requirements of Sec. 20-314 of this ordinance.

(3) Plan revisions occurring after initial plan approval shall be submitted for review with an application, applicable changes to drawings, calculations, and the Operation and Maintenance Agreement. Fees shall be per (4) below.

(4) Fees for the above-noted permits will include a non-refundable one hundred dollar ($100) application fee and will be the actual costs incurred by the City. The application fee shall be credited toward the actual costs incurred by the City. Fees shall be payable within thirty (30) days of receipt of an invoice from the City. An invoice will be sent any time an applicant fails to resubmit a plan revision for ninety (90) days or more.

(Ord 66-10, §1, 4-13-10; Ord 157-11, §1, 1-1-12, Ord 42-16, §1, 5-1-16)

(c) Review and approval of permit application. The City of Appleton will review any complete permit application that is submitted with the required fee. The following procedure will be used:

(1) For a Major Stormwater Management Plan, within thirty (30) business days of the receipt of a complete permit application, including all documents as required by Sec. 20-321(b)(1) of this ordinance, the City of Appleton shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved. The City of Appleton shall base the decision on requirements set forth in Secs. 20-312, 20-313 and 20-314 of this ordinance.

(2) For a Minor Stormwater Management Plan, within fifteen (15) business days of receipt of a complete permit application, including all documents as required by Sec. 20-321(b)(1) of this ordinance, the City of Appleton shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved. The City of Appleton shall base the decision on requirements set forth in Secs. 20-312, 20-313 and 20-314 of this ordinance.

(3) If the stormwater permit application, stormwater management plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices are paid, the City of Appleton shall issue the permit.

(4) If the stormwater permit application, stormwater management plan or maintenance agreement are disapproved, the applicant may revise the stormwater management plan or agreement, or may appeal the decision of the City of Appleton as provided for in Sec. 20-327 of this ordinance.
(5) If additional information is submitted, the City of Appleton shall have thirty (30) business days from the date the additional information is received for a Major Stormwater Management Plan and fifteen (15) business days for a Minor Stormwater Management Plan to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(6) Failure by the City of Appleton to inform the permit applicant of a decision within the timelines listed above shall be deemed to mean approval of the submittal and applicant may proceed as if permit has been issued.

(Ord 157-11, §1, 1-1-12, 42-16, §1, 5-1-16)

(d) Stormwater practice installation and maintenance performance security. The City of Appleton may, at its discretion, require the submittal of a cash escrow, letter of credit, or performance security prior to issuance of the permit to ensure that the stormwater practices are installed and maintained by the responsible party as required by the stormwater management plan. The amount of the installation performance security shall be determined by the City of Appleton, not to exceed the total estimated construction cost of the stormwater management practices approved under the permit unless otherwise specified in the permit.

The amount of the maintenance performance security shall be determined by the City of Appleton, not to exceed ten- (10-) years of the maintenance costs estimated in the stormwater plan. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

Conditions for the release of performance security are as follows:

(1) The installation performance security shall be released in full only upon submission of “as built plans” and written certification by the design engineer that the stormwater practice(s) were installed and function as intended in accordance with the approved plan and other applicable provisions of this ordinance. The City of Appleton may make provisions for a partial pro-rata release of the performance security based on the completion of various development stages including the final inspection of landscaping material.

(2) The maintenance performance security, minus any costs incurred by the City of Appleton to conduct required maintenance, design, engineering, preparation, checking and review of designs, plans and specifications; supervision and inspection to ensure that construction is in compliance with applicable plans, specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance, shall be released at such time that the responsibility for practice maintenance is passed on to another private entity, via an approved maintenance agreement, or to the City of Appleton.

(e) Permit conditions. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City of Appleton may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the City of Appleton to suspend or revoke this permit may be appealed in accordance with Sec. 20-327 of this ordinance.

(1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state and local laws and regulations.

(2) The responsible party shall design, install, and maintain all structural and nonstructural stormwater management measures in accordance with the approved stormwater management plan, maintenance agreement, and this permit.

(3) The responsible party shall notify the City of Appleton at least three (3) business days before commencing any work in conjunction with the stormwater management plan, and within five (5) business days upon completion of the stormwater management practices.

If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the City of Appleton so that practice installations can be inspected during construction.

(4) Completed stormwater management practices must pass a final inspection to determine if they are in accordance with the approved stormwater management plan and ordinance. The inspection must be made by the City of Appleton, or other competent professionals. The City of Appleton shall notify the permit holder in writing of any changes required in such practices to bring them into compliance with the conditions of this permit. The responsible party is further required to submit an as-built plan and a certificate of completion, stating the completion of the permitted work is in accordance with the stormwater management plan, City of Appleton, state and federal
The certificate must be signed by the design engineer.

(5) The responsible party shall notify the City of any significant modifications it intends to make to an approved stormwater management plan. The City of Appleton may require that the proposed modifications be submitted for approval prior to incorporation into the stormwater management plan and execution by the responsible party.

(6) The responsible party shall maintain all stormwater management practices specified in the approved stormwater management plan until the practices either become the responsibility of the City of Appleton, or are transferred to a subsequent responsible party as specified in the approved maintenance agreement.

(7) The responsible party authorizes the City of Appleton to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to placing associated costs upon the tax roll as a special lien against the property which may be collected as special charges pursuant to §66.0627, Wis. Stat., by the City of Appleton or to charging such costs against the letter of credit or cash bond posted for the project.

(8) If so directed by the City of Appleton, the responsible party shall repair at the permit holder’s own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.

(9) The responsible party shall permit property access to the City of Appleton or its designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.

(10) Where necessary, it shall be the responsibility of the permit holder to obtain any appropriate easements or other necessary property/interests with affected property owners concerning the prevention of endangerment to property or public safety. Issuance of this permit does not create or affect any such rights.

(11) The owner is subject to the enforceable actions detailed in Sec. 20-326 of this ordinance if the responsible party fails to comply with the terms of this permit.

(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

(f) **Permit duration.** The responsible party must start the permit activities within one (1) year of the date the permit is issued. An extension of one (1) year may be granted by the Director, provided a written request is submitted to the Director prior to the expiration date for the initial permit. If permit activities are not started, then a new permit application and fee may be required.

(Ord 6610, §1, 4-13-10)

(g) **Fee in lieu of on-site stormwater management practices.** Where the City of Appleton waives all or part of the minimum on-site stormwater management requirements under Sec. 20-313(c) of this ordinance, or where the waiver is based on the provision of adequate stormwater facilities provided by the City of Appleton downstream of the proposed development or redevelopment, as provided for under Sec. 20-312 of this ordinance, the applicant shall be required to pay a fee in an amount as determined by the City of Appleton pursuant to §66.0617, Wis. Stat. and any other applicable law.

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

Secs. 20-322 – 20-325. Reserved.
DIVISION 4. ENFORCEMENT AND APPEALS

Sec. 20-326. Enforcement and penalties.

(a) Any land disturbing construction activity or any post-construction runoff initiated after the effective date of this ordinance by any person, firm, association or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.

(b) The City of Appleton shall notify the responsible party or owner by certified mail of any non-complying land disturbing construction activity or post construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action and additional enforcement action, which may be taken.

(c) Upon receipt of written notification from the City of Appleton, the responsible party or owner shall correct work that does not comply with the stormwater management plan or other provisions of this permit. The responsible party or owner shall make corrections as necessary to meet the specifications and schedule set forth by the City of Appleton in the notice.

(d) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City of Appleton may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of Appleton plus interest and legal costs shall be billed to the responsible party or owner.

(e) The City of Appleton is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the Appleton City Attorney to obtain a cease and desist order.

(f) The City of Appleton may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.

(g) Any permit revocation, stop work order or cease and desist order shall remain in effect unless retracted by the City of Appleton or by a court of competent jurisdiction.

(h) The City of Appleton is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance to the Appleton City Attorney for the commencement of further legal proceedings.

(i) Any person, firm, association or corporation who does not comply with the provisions of this ordinance shall be subject to the general penalty provisions of the Appleton Municipal Code Sec. 1-16. Each day that the violation exists shall constitute a separate offense.

(j) Violations of this ordinance deemed to be a public nuisance shall be subject to abatement under Sec. 12-32 of the City of Appleton Municipal Code or compliance with this ordinance may be enforced by injunctive order in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

(k) When the City of Appleton determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the stormwater management plan submitted and approved pursuant to Sec. 20-321 of this ordinance, or has failed to comply with schedules set forth in said stormwater management plan, the City of Appleton or a party designated by the City of Appleton may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City of Appleton shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance security posted pursuant to Sec. 20-321 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property.

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

Sec. 20-327. Appeals.

(a) Appeals. The Utilities Committee of the Appleton Common Council shall hear and recommend to Council appeals where it is alleged that there is error in any order, decision or determination made by the City of Appleton in administering this ordinance. The Committee shall use the rules, procedures, duties and powers authorized by statute in hearing and recommending appeals.

Upon appeal, the Committee may recommend to Council relief from the provisions of this ordinance that are not contrary to the public interest or provisions of state regulations, and where owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship.

(b) Who may appeal. Appeals to the Utilities Committee of the City of Appleton may be taken by any aggrieved person or by an officer, department, board or bureau of the City of Appleton affected by any decision of the City of Appleton. Written appeals shall be filed with the City Clerk. The Utilities Committee will make a recommendation within forty-five (45) calendar days of filing of the appeal. If the Utilities Committee takes no action within forty-five (45) calendar days, the appeal will automatically be sent to Council with a recommendation for approval. Either party may file a written request for a time extension with the City Clerk.
DIVISION 5. SEVERABILITY

Sec. 20-331. Severability.

If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portion thereof of the ordinance which shall remain in full force and effect.

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

DIVISION VI. EFFECTIVE DATE.

Sec. 20-332. Effective date.

This ordinance is in full force and effect on May 1, 2016.

(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)
ARTICLE VII. ILLICIT DISCHARGES AND CONNECTIONS

DIVISION 1. IN GENERAL

Sec. 20-400. Purpose and intent.

(a) The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of City of Appleton through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:

1. To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.

2. To prohibit illicit connections and discharges to the MS4.

3. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

(Ord 67-08, §1, 3-25-08)

Sec. 20-401. Definitions.

For the purposes of this ordinance, the following shall mean:

**Authorized enforcement agency.** City of Appleton Director of Public Works and/or designees thereof.

**Contaminated stormwater.** Stormwater that comes into contact with material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts or industrial machinery in the source areas listed in NR 216 (effective August 1, 2004).

**Department (DNR).** The Wisconsin Department of Natural Resources.

**Discharge.** As defined in Wisconsin Statute 283 (November 1, 2005 or as subsequently amended), when used without qualification includes a discharge of any pollutant.

**Discharge of pollutants.** As defined in Wisconsin Statute 283 (November 1, 2005), means any addition of any pollutant to the waters of the state from any point source.

**Hazardous materials/substance.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**Illicit connections.** An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the MS4 or waters of the state including, but not limited to, any conveyances that allow any non-stormwater discharge including sewage, process wastewater, or wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**Illicit discharge.** Any discharge to a municipal separate storm sewer system or waters of the state that is not composed entirely of stormwater except discharges authorized by a WPDES permit or other discharge not requiring a WPDES permit such as landscape irrigation, individual residential car washing, fire fighting, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, flows from riparian habitats and wetlands, and similar discharges.

**Industrial activity.** Activities subject to WPDES Industrial Permits per NR 216 (effective August 1, 2004) and Wisconsin Statute 283 (November 1, 2005).

**Municipality.** Any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district, the Wisconsin Department of Transportation or any other public entity created pursuant to law and having authority to collect, treat or dispose of sewage, industrial wastes, stormwater or other wastes.

**Municipal Separate Storm Sewer System (MS4).** As defined in Wisconsin Administrative Code NR 216 (effective August 1, 2004), means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all the
following criteria:

(1) Owned or operated by a municipality.

(2) Designed or used for collecting or conveying stormwater.

(3) Which is not a combined sewer conveying both sanitary and stormwater.

(4) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

**Non-stormwater discharge.** Any discharge to the MS4 that is not composed entirely of stormwater.

**Owner.** Any person holding fee title, an easement or other interest in property.

**Outfall.** The point at which stormwater is discharged to waters of the state or to a storm sewer or to an adjacent municipality.

**Person.** An individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

**Pollutant.** As defined in Wisconsin Statute 283 (November 1, 2005), means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt, yard waste and industrial, municipal and agricultural waste discharged into water.

**Pollution.** As defined in Wisconsin Statute 283 (November 1, 2005), means any man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

**Pollution prevention.** Taking measures to eliminate or reduce pollution.

**Premises.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks.

**Stormwater.** Runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface.

**Stormwater Management Plan/Stormwater Pollution Prevention Plan.** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, MS4s, and/or waters of the State to the Maximum Extent Practicable.

**Stormwater Management Practices (SMPs).** Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or other pollutants carried in runoff to waters of the state.

**Wastewater.** Any water or other liquid, other than uncontaminated stormwater, discharged from a property.

**Watercourse.** A natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils map for Outagamie, Winnebago and Calumet Counties, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.

**Waters of the state.** As defined in Wisconsin Statute 283 (November 1, 2005), means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

**Wisconsin Pollutant Discharge Elimination System (WPDES) Stormwater Discharge Permit.** A Wisconsin pollutant discharge elimination system permit issued pursuant to Wisconsin Statute 283 (November 1, 2005).

Sec. 20-402. Applicability.

This ordinance shall apply to all pollutants, substances or wastewater entering the MS4 unless explicitly exempted by an authorized enforcement agency.

Sec. 20-403. Responsibility for administration.

The authorized enforcement agency and/or its agents shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

Sec. 20-404. Compatibility with other regulations.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law.
The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(Ord 67-08, §1, 3-25-08)

Sec. 20-405. Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

(Ord 67-08, §1, 3-25-08)

Sec. 20-406. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(Ord 67-08, §1, 3-25-08)


DIVISION 2. DISCHARGE PROHIBITIONS.

Sec. 20-411. Prohibition of illicit discharges.

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than stormwater.

(Ord 67-08, §1, 3-25-08)

Sec. 20-412. Allowed discharges.

(a) Irrigation, diverted stream flows, ground waters, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, springs, water from crawl space pumps, footing drains, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges.

(b) Discharges or flow from firefighting, and other discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(c) Discharges associated with dye testing, provided verbal notification is given to the authorized enforcement agency and the Department of Natural Resources a minimum of three (3) days prior to the time of the test.

(d) Any non-stormwater discharge permitted under an WPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Wisconsin Department of Natural Resources. Any person subject to such an WPDES stormwater discharge permit shall comply with all provisions of such permit.

(e) Notwithstanding (a) – (d), the occurrence of a discharge listed above may be considered an illicit discharge on a case-by-case basis if the permittee or the Department identifies it as a significant source of a pollutant to waters of the state.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15; Ord 19-20, §1, 3-24-20)

Sec. 20-413. Prohibition of illicit connections.

(a) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(b) This prohibition includes, but is not limited to, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage or any other pollutant to the MS4, or allows such a connection to continue.
APPLETON CODE

Sec. 20-414. Watercourse protection.

Every person owning property through which a watercourse passes, or such person’s lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord 67-08, §1, 3-25-08)


DIVISION 3. COMPLIANCE MONITORING

Sec. 20-421. Right of entry: inspecting and sampling.

(a) The authorized enforcement agency shall be permitted to enter and inspect any property subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

(1) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Property operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.

(3) The authorized enforcement agency shall have the right to set up on any property such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the property’s stormwater discharge.

(4) The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The property’s sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the property to be inspected, sampled or monitored shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the authorized enforcement agency access to a property is a violation. A person who is the operator of a property commits an offense if the person denies the authorized enforcement agency reasonable access to the property for the purpose of conducting any activity authorized or required by this ordinance.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)
Sec. 20-422. Special inspection warrant.

If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect, sample or monitor as part of a routine inspection, sampling or monitoring program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a special inspection warrant per state statute §66.0119.

(Ord 67-08, §1, 3-25-08)

Sec. 20-423. Requirement to prevent, control and reduce stormwater pollutants by the use of stormwater management practices.

The owner or operator of any activity, operation, or property which may cause or contribute to pollution or contamination of stormwater, the MS4, watercourses, or waters of the State shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of structural and non-structural SMPs. Further, any person responsible for a property or premise, that is, or may be, the source of an illicit discharge, may be required to implement, at said person’s expense, additional structural and non-structural SMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of stormwater associated with industrial activity, shall be deemed compliance with the provisions of this section. These SMPs shall be part of a Stormwater Management Plan (SWMP)/Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15; Ord 20-20, §1, 3-24-20)

Sec. 20-424. Notification of spills

Notwithstanding other requirements of law, as soon as any person responsible for a property or operation, or responsible for emergency response for a property or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, or waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized enforcement agency within seventy-two (72) hours of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least seven (7) years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

DIVISION 4. VIOLATIONS, ENFORCEMENT AND PENALTIES

Sec. 20-431. Violations.

(a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(b) In the event the violation constitutes an immediate danger to public health, public safety or the environment the authorized enforcement agency is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The authorized enforcement agency is authorized to seek costs of the abatement as outlined in §20-440.

(c) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the authorized enforcement agency.

(d) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the authorized enforcement agency requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the authorized enforcement agency.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

Sec. 20-432. Warning notice.

When the authorized enforcement agency finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the authorized enforcement agency may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in the subsection shall limit the authority of the authorized enforcement agency to take action, including emergency action or any other enforcement action without first issuing a Warning Notice.

(Ord 67-08, §1, 3-25-08)

Sec. 20-433. Notice of violation.

(a) Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person.

(b) The Notice of Violation shall contain:

1. The name and address of the alleged violator;
2. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the authorized enforcement agency by filing a written notice of appeal within three (3) days of service of notice of violation; and
7. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator.

(c) Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of stormwater pollution or contamination hazards and the
restoration of any affected property;

(5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of SMPs.

(Ord 67-08, §1, 3-25-08; Ord 21-20, §1, 3-24-20)

Sec. 20-434. Suspension of MS4 access.

(a) Reserved.

(b) Emergency cease and desist orders.

(1) When the authorized enforcement agency finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person’s past violations are likely to recur, and/or that the person’s violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the State which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the authorized enforcement agency may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

a. Immediately comply with all ordinance requirements; and

b. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(c) Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger’s failure to immediately comply voluntarily with the emergency order, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the State, and/or endangerment to persons or to the environment, including immediate termination of a property’s water supply, sewer connection, or other municipal utility services. The authorized enforcement agency may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the authorized enforcement agency that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the authorized enforcement agency within seventy-two (72) hours of receipt of the orders to cease and desist all violations.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

Sec. 20-435. Suspension due to illicit discharges in emergency situations.

The authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4, or to minimize danger to persons.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

Sec. 20-436. Suspension due to detection of illicit discharge.

(a) Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration hearing and the violator shall have an opportunity for hearing under Wis. Stats. Ch. 68, except when termination is necessary to abate an imminent threat to the public health, safety, welfare or environment. The violator may have a hearing under Wis. Stats. Ch. 68, within ten (10) days of such emergency discontinuance.

(b) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

Sec. 20-437. Prosecution and penalties.

(a) Any person that has violated or continues to violate this ordinance shall be liable to prosecution to the fullest extent of the law. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within the set time period specified by the authorized agency, after the authorized enforcement agency has taken one or more of the actions described above, the authorized enforcement agency may impose a penalty not to exceed $1,000 for each day the violation remains unremedied after receipt of the notice of violation. For second and subsequent offenses, the penalty shall not exceed $5,000 per day.

(b) Prosecution of violation. If the notice of violation is not complied with promptly, the authorized enforcement
agency shall request the City Attorney to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation. Upon conviction the violator shall be fined as provided hereinbefore for each violation together with the costs of prosecution. Each day that a violation continues shall be deemed a separate offense.

(c) Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the City Attorney from instituting appropriate action to prevent, correct or abate a violation, or to stop an unlawful or illegal act.

(Ord 67-08, §1, 3-25-08)

Sec. 20-438. Enforcement measures.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then representatives of the authorized enforcement agency are authorized to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord 67-08, §1, 3-25-08)

Sec. 20-439. Cost of abatement of the violation.

Within Sixty (60) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the municipal authority, the charges shall become a special charge against the property and shall constitute a lien on the property.

(Ord 67-08, §1, 3-25-08)

Sec. 20-440. Violations deemed a public nuisance.

Any condition in violation of any of the provisions of this ordinance and declared and deemed a nuisance, may be summarily abated or restored at the violator’s expense.

(Ord 67-08, §1, 3-25-08)

Sec. 20-441. Remedies not exclusive.

(a) The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(b) The authorized enforcement agency may recover all attorney’s fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

(Ord 67-08, §1, 3-25-08)
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Editor’s Note: This chapter was repealed and recreated pursuant to Ordinance 74-04, adopted June 2, 2004 and published June 7, 2004.

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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ARTICLE I. INTRODUCTORY INFORMATION

Sec. 23-1. Title.

This chapter shall be known and may be cited and referred to as the “Appleton Zoning Ordinance”, or “this chapter”.

Sec. 23-2. Purpose; intent.

This chapter is adopted for the following purposes:

(a) To promote and protect the health, safety, morals, comfort, convenience and general welfare of the community through encouraging the most appropriate uses of land in the city.

(b) To achieve the arrangement of land uses described in the VISION 20/20: Comprehensive Plan for the development of the City as adopted by Council.

(c) To minimize congestion in the public rights-of-way through the regulation of off-street parking, maneuvering, loading and signage;

(d) To ensure the provision of adequate open space for light, air and fire safety.

(e) To facilitate the adequate, efficient and cost effective provisions for infrastructure and other public services and facilities.

(f) To promote the conservation, protection, restoration and enhancement of the historic resources of the city.

(g) To enhance economic development.

(h) To conserve the natural, scenic beauty and attractiveness of the City and to enhance the aesthetic desirability of the environment.

(i) To divide the City into districts within which the uniform location, sizes and uses of buildings and minimum open spaces shall be regulated.

(j) To prohibit the use of buildings, structures and lands which are incompatible with the intended use or development of lands within specified districts.

(k) To provide regulations pertaining to pre-existing lots, structures and uses that do not conform to provisions of this chapter.

(l) To provide for the compatible and appropriate use of land throughout the City.

(m) To promote orderly development of all areas of the community.

(n) To provide for the administration of this chapter and its amendments.

(o) To define the powers and duties of the officers and bodies charged to administer this chapter.

(p) To describe penalties for the violation of provisions of this chapter or any of its amendments.

(Ord 61-94, §5, 5-18-94)

23-3. Relationship to comprehensive plan.

The VISION 20/20: Comprehensive Plan for the City of Appleton, adopted on July 8, 1996, and as amended establishes the goals, objectives and strategies that serve as a basis for this zoning ordinance. All regulations or amendments adopted pursuant to this ordinance shall be generally consistent with the VISION 20/20: Comprehensive Plan as adopted and revised or updated.

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ARTICLE II. DEFINITIONS

Sec. 23-21. Purpose

The following words and terms, wherever they occur in this chapter, shall be construed as herein defined. Words not defined in this zoning ordinance shall be interpreted in accordance with definitions in Municipal Code of the City of Appleton, The New Illustrated Book of Development Definitions by Harvey S. Moskowitz, the Wisconsin State Statutes, the State Building Code or Uniform Dwelling Code. If a word or term is not defined as identified by the protocol above, it shall have the meaning set forth in the latest edition of Webster’s New World College Dictionary.

(Ord 24-20, §1, 3-25-20)

Sec. 23-22. Words and terms defined.

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

A

Abandonment means to cease or discontinue a use or activity without intent to resume, but excluding the temporary or short term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abutting means having a common border with, or being separated from such a common border by a right-of-way, alley or easement.

Accessory building means a subordinate building, the use of which is incidental to and customary in connection with the principal building, structure or use, and which is located on the same lot with such principal building, structure or use. Examples of accessory buildings include, but are not limited to, attached garages, detached garages, attached carports, detached carports, sheds and gazebos.

Accessory structure means a subordinate structure, the use of which is incidental to and customary in connection with the principal building, structure or use, and which is located on the same lot with such principal building, structure or use. An accessory structure is not necessarily a building. Examples of non-building accessory structures include, but are not limited to, parking lots, fences, patios, decks, play equipment, swimming pools and tennis or basketball courts.

Accessory use means a subordinate use that is incidental to and customary in connection with the principal building, structure or use, and is located on the same lot with such principal building, structure or use.

Addition or Expansion means an increase in gross floor area, gross square foot area, height, lot coverage, building coverage, length, or width of an existing building, structure, off-street parking lot, off-street loading area or use.

Adjacent. See Abutting.
Agriculture means a use involving the raising of field crops and horticulture.

Alley means a public thoroughfare that generally affords only a secondary means of access to abutting property.

Alteration, Building or Structure means any change involving the addition, removal, replacement, relocation of supporting members of an existing building or structure, not including off-street parking lots and loading areas, such as bearing walls, posts, columns, beams, plates, doors, windows, foundation walls, roofs or exterior walls.

Amusement arcade means a use in which fifteen (15) or more pinball machines, video games or other similar player-operated amusement devices (see §9-126) are maintained. Principal uses which require a special use permit are not considered an amusement arcade (e.g. taverns, neighborhood recreation centers).

Antenna means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunications signals, including, but not limited to, directional antennas, such as panel(s), microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

Apartment dwelling means a use containing a room or suite of rooms rented or leased, with cooking facilities available within the suite of rooms which is occupied as a residence by a single family or a group of individuals living together as a single family unit. This includes any unit in residential buildings with three (3) or more dwelling units or any one (1) or more units in a building used primarily for nonresidential uses.

Architectural features means ornamentation or decorative features attached to or protruding from an exterior wall including, but not limited to, cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

Arterial street means a street that is designed to efficiently carry substantial traffic volumes within and through the City. Access to abutting properties is a subordinate arterial street function.

Asphalt plant means use that stores materials for and manufactures asphalt products for distribution off premises.

Assisted living and retirement home means a use involving a nonprofit residential facility, which as its primary function provides personal care above the level of room and board to retired persons, where three (3) or more unrelated adults or their spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents.

Attached building or structure means a building or structure, which is attached to another building or structure by a wall, a roof or by a continuous foundation.

Automobile/vehicle car wash. See Car wash.

Automobile maintenance shop means a use where the exclusive service performed or executed on any motor vehicles of less than twenty-six thousand (26,000) pounds gross vehicle weight rating (GVWR), for compensation, includes the installation of exhaust system, repair of the electrical system, transmission repair, brake repair, tire repair and installation, rust proofing, motor vehicle diagnostic center, major and minor mechanical repairs.

Automobile, RV, truck, cycle and boat rental and display lot means a use involving the display and temporary storage of motor vehicles, including recreational vehicles, trucks, motorcycles and boats for rental or lease to the general public and where repair or service work to those vehicles is incidental to the operation of the rental fleet.

Automobile, RV, truck, cycle and boat sales and display lot means a use involving the display and temporary storage, for sale, of new or used motor vehicles including recreational vehicles, trucks, motorcycles and boats, and where repair or service work is incidental to the operation of new or used vehicle sales.
Barrier means anything that prevents access to a particular location.

Base course means the horizontal layer of stone aggregate or other compacted material underneath the surface course.

Bed and breakfast establishment means a use involving lodging in a single-family dwelling that provides for overnight accommodations and a morning meal to transients for compensation.

Berm means earthen material and soil covered with sod placed in an irregular shaped mound or linear shaped mound along a property line, right-of-way, or other feature. Berm shall also include earthen berm.

Bicycle parking space means an area designated and equipped for the purpose of parking and securing a bicycle.

Body repair or paint shop means a use conducting body work, frame work, welding and painting of an entire vehicle, boat, RV, or truck or a major portion thereof of any of the aforementioned motor vehicles of less than twenty-six thousand (26,000) pounds gross vehicle weight rating (GVWR), or boats.

Brewery means a use which manufactures, bottles and packages a total of more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages per calendar year on premises including storage and distribution of fermented malt beverages that have been manufactured on the premises.

Buffer means the use of land, topography, difference in elevation, space, fences or landscape planting to screen, or partially screen, a use or property from another use or property.

Buildable area means the space remaining on a lot after the minimum setback, open space, easements and other site constraint requirements of this chapter have been satisfied.

Building means any structure having a roof that may provide shelter, support, protection or enclosure of persons, animals or property of any kind.

Building coverage means a percentage figure referring to that portion of a lot covered with principal and/or accessory buildings.

Building footprint means the ground area covered by and including the exterior dimensions of a building, including enclosed porches, attached garages and carports.

Building height means the vertical distance to be measured from the finished grade plane of a building line, to the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the average height between the top plate and ridge for gable, hip and gambrel roofs. (See graphic on the following page)
Building line means a line separating buildable area from any required yards or open spaces as defined herein. Building line will constitute the footing walls rather than the overhang.

Building, principal means a building which contains the primary use of the lot, as contrasted to accessory structure, building or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

Bulk flammable or combustible liquid storage or distribution facility means a use involving the storage and eventual resale to distributors or retail dealers of liquids, chemicals, or petroleum products that, by reason of their toxic, caustic, corrosive, abrasive, flammable or combustible nature, may be detrimental to the health of any person handling or otherwise coming into contact with such liquids.

Bus terminal means any use involving the storage or parking of motor-driven buses and the loading and unloading of passengers.

Business means any lawful use, occupation, employment or enterprise where merchandise is exhibited or sold or where services are offered for compensation.
Canopy means a structure constructed of fabric or pliable material, metal, wood, brick or other material, consisting of a roof and support by columns or stanchions, not enclosed, attached or unattached to a building. Examples of canopies include, but are not limited to, gas pump canopies at gasoline stations, canopies associated with a temporary use, drive-through canopies at banks, pharmacies and restaurants.

(Ord 33-15, §1, 3-24-15)

Car wash means the use of a tract of land, building, or portion thereof, for the manual or automatic washing and cleaning of passenger vehicles, recreational vehicles or other light duty equipment.

Carport means a detached or attached accessory building that consists of a roof and that has at least two (2) sides completely unenclosed from the ground to the roof, which is designed primarily for storage and/or parking of passenger vehicles, trailers, recreational vehicles, and trucks of a rated capacity not in excess of ten thousand (10,000) pounds gross weight.

Cemetery means the use of land or land dedicated for the burial of the dead, including mausoleums, necessary sales and maintenance facilities.

Change of use means the replacement of an existing use on any portion of a lot, by a new use or change in the nature of any existing use, but does not include a change of ownership, tenancy, or management associated with a use in which the previous nature of the use remains unchanged. A change in use from a vacant building or structure to an occupied building or structure shall be considered a Change of use, unless the use is a continuation of a prior use. For the purposes of this chapter, the prior use includes the last established use that was issued a certificate of occupancy to legally occupy the vacant building or structure.

Child welfare agency means any use operated by a person required to be licensed by the Department of Health and Family Services that takes custody of and provides care and maintenance for four (4) or more children for a period of seventy-five (75) days in any consecutive twelve (12) month period.

Christmas tree sales lot, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells Christmas trees and related holiday items such as wreaths and Christmas tree stands to the general public.

Circus and carnival means any use including a temporary outdoor amusement center, bazaar, or fair, involving the use of special purpose equipment operated by professional operators and where activities include such things such as: live performances, animal exhibits, rides, exhibitions, food services, sales, and/or small scale games.

Class 2 notice means notice of a public hearing that is required by Wisconsin Statutes to be inserted twice into the official municipal newspaper. For City planning matters, notice is required once in each of two (2) separate weeks prior to the scheduled hearing.

Class A vehicle means any combination of vehicles with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, if the aggregate total gross vehicle weight rating, actual gross weight or registered weight of the vehicle or vehicles being towed is in excess of 10,000 pounds.

Class B vehicle means any single vehicle with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, and any such vehicle towing a vehicle or vehicles with an aggregate total gross vehicle weight rating, actual gross weight or registered weight of 10,000 pounds or less.

Class C vehicle means any single vehicle with a gross vehicle weight rating, actual gross weight and registered weight of 26,000 pounds or less, including any such vehicle towing a vehicle with a gross vehicle weight rating, actual gross weight and registered weight of less than 10,000 pounds, if any of the following applies:

1. The vehicle is designed to transport sixteen (16) or more passengers, including the driver.
2. The vehicle is transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

**Class D vehicle** is any motor vehicle not identified as a Class A, B, C, or M motor vehicle.

**Class M vehicle** means any type 1 motorcycle.

**Club** means any use where a nonprofit association of persons who are bona fide members paying regular dues, and who are organized for some common purpose. Clubs shall exclude places of worship or groups organized solely or primarily to render a service customarily carried on as a commercial enterprise.

**Clubhouse** means a support facility in conjunction with a golf course, that provides services to patrons of the golf course.

**College or university.** See **Educational institution, college or university.**

**Commercial entertainment** means a use that provides services related to the entertainment field within an enclosed building. Examples include: theaters, motion picture theaters, miniature golf, skate park, bowling alleys, pool and billiard halls and similar entertainment activities.

**Commercial truck body and/or paint shop** means a use conducting body work, frame work, welding and painting of the entire vehicle or major portion thereof of any truck, tractor, semi-trailer or truck-trailer combination of 26,000 pounds gross vehicle weight rating (GVWR) or more.

**Commercial truck maintenance shop** means a use where the exclusive service performed or executed on any truck tractor, semi-trailer combination of 26,000 pounds gross vehicle weight rating (GVWR) or more, for compensation shall include the installation of exhaust system, repair of the electrical system, transmission repair, brake repair, tire repair and installation, rust proofing, truck diagnostic center, major and minor mechanical repairs.

**Commercial use** means a use that involves conducting business, including the sale of goods and/or services.

**Community-based residential facility** means a use where five (5) or more adults who are not related to the licensed operator or administrator and who do not require care above intermediate level nursing care, reside and receive care, treatment, or services that are above the level of room and board but that include no more than three (3) hours of nursing care per resident. (Considered a community living arrangement) A community-based residential facility is subject to the standards listed in §23-52 of this ordinance.

“Community-based residential facility” does not include any of the following:

(a) A convent or facility owned or operated by members of a religious order exclusively for the reception and care or treatment of members of that order.

(b) A facility or private home that provides care, treatment and services only for victims of domestic abuse, as defined in W.S.A. §49.165(1)(a), and their children.

(c) A shelter facility as defined as under W.S.A. §16.308(1)(d).

(d) A place that provides lodging for individuals and in which all of the following conditions are met:

(1) Each lodged individual is able to exit the place under emergency conditions without the assistance of another individual.

(2) No lodged individual receives from the owner, manager or operator of the place or the owner’s, manager’s or operator’s agent or employee any of the following:

   a. Personal care, supervision or treatment, or management, control or supervision of prescription medications.
ZONING

b. Care or services other than board, information, referral, advocacy or job guidance; location and coordination of social services by an agency that is not affiliated with the owner, manager or operator, for which arrangements were made for an individual before he or she lodged in the place; or, in the case of an emergency, arrangement for the provision of health care or social services by an agency that is not affiliated with the owner, manager or operator.

(c) An adult family home.

(f) A residential care apartment complex.

**Community garden** means land or rooftops that are managed and maintained by a group of individuals, an organization or business to grow and harvest fruits, vegetable, flowers, and other plant and herb products for education, for personal or group consumption or for donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed by members of the group and may include common areas maintained and used by group members.

*(Ord 45-12, §1, 6-6-12)*

**Community living arrangement** means any of the following uses licensed or operated or permitted under the authority of the Department of Health and Family Services: residential care centers for children and youth, as defined in W.S.A. §48.02(15d), and operated by child welfare agencies licensed under W.S.A. §48.60, group homes for children, as defined in W.S.A. §48.02(7), and community-based residential facilities, as defined in W.S.A. §50.01(1g). Community living arrangements are subject to the standards listed in §23-52 of this ordinance.

This definition does not include: adult family homes, as defined in W.S.A. §50.01(1), day care centers, nursing homes, general hospitals, special hospitals, and prisons or jails.

**Comprehensive plan** means a compilation of policy statements, goals, standards and maps for guiding the physical, social, and economic development, both private and public, of the municipality and its environs adopted by the City and as may be amended from time to time.

**Concrete mixing plant** means a use that stores water, aggregate and cement and mixes those items for the production of concrete for distribution into trucks for off site use.

**Condominium** means a building or group of buildings in which dwelling units, offices or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

**County** means the county in which the property is located: Outagamie, Calumet or Winnebago.

**Covenant** means a contract or other written agreement between private parties that constitutes a restriction on a particular parcel of land.

**Craft-Distillery** means a use which manufactures, bottles and packages a total of not more than 100,000 proof gallons of intoxicating liquor under the name of “whiskey”, “brandy”, “gin”, “rum”, “spirits”, “cordials” or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

**D**

**Day care, adult** means a day program that provides the elderly and other adults with services when their caregivers are at work or need relief.

**Day care, family** means a use licensed as a day care center by the State of Wisconsin Department of Health and Family Services where care is provided by a resident for not more than eight (8) children.

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Day care, group means a use, not in a private residence, that provides care and supervision for nine (9) or more children, licensed by the State of Wisconsin Department of Health and Family Services.

Density means the ratio of the number of dwelling units to the lot area.

Detached building or structure means a freestanding building or structure and where all sides of the building or structure are surrounded by yards or open space on the same lot.

Developed property means all parcels or a portion there of that is improved with buildings, paved off-street parking spaces, or that is actively used as recreational facilities.

Development regulations means the parts of a zoning ordinance that applies to elements including but not limited to parking, loading and unloading, building and structure height, lot coverage, design and yard setback requirements.

Distillery means a use which manufactures, bottles and packages a total of more than 100,000 proof gallons of intoxicating liquor under the name of “whiskey”, “brandy”, “gin”, “rum”, “spirits”, “cordials” or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

Domestic animal means any animal that has been bred and/or raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Domicile means a residence that is a permanent home to an individual.

Drive through facility (also drive-in facility) means any portion of a building or structure from which business is transacted or is capable of being transacted, directly with customers located in a motor vehicle during such business transaction.

Dwelling means a building or part of a building containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one (1) or more families.

Dwelling, incidental apartment means a portion of a building designed for occupancy by a single family.

Dwelling, detached means single family dwelling that is entirely surrounded by open space on the same lot.

Dwelling, multi-family means a building or portion thereof containing three (3) or more dwelling units.

Dwelling, residential. See Dwelling.

Dwelling, single family detached means a building containing one (1) dwelling unit that is entirely surrounded by open space on the same lot. Typically referred to as a single-family home.

Dwelling, two-family (or duplex) means a building containing two (2) dwelling units. The dwelling units are attached and may be located on separate floors or side-by-side.

Dwelling, two-family zero lot line means two (2) single-family dwellings, attached by a common wall, each being on separate lots (a side-by-side duplex with each unit typically under separate ownership).

Dwelling unit means a residential building or portion thereof intended for occupancy by one (1) family, but not including hotels, motels, boarding or rooming houses or tourist homes.

Easement means a grant by a property owner for use of a parcel of land by the public or any person for any specific purpose or for purposes of access, constructing and maintaining utilities, including: sanitary sewers, water mains, electric
Educational institution; business, technical or vocational means a use including specialized instructional classes that provides training for business, commercial, or trade skills such as accounting, data processing or automotive repair.

Educational institution; college or university means a public or private post-secondary use, with an academic curricula, including uses, structures, and/or facilities sanctioned by, ancillary to, or necessary to the operation of the college or university. This includes, but is not limited to the following ancillary uses affiliated with the college or university: food sales, retail sales indoor and/or outdoor recreation facilities, offices, printing, museums and professional service.

Educational institution; elementary school, junior high school, high school means a public or private use that provides an academic curricula of elementary or secondary academic instruction, kindergartens, elementary schools, middle schools, junior high schools and high schools.

Essential services means overhead or underground electrical, gas, steam or water transmission or distribution systems, and collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or systems as are required for the protection of public health, safety or general welfare, including: utility substations, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables and similar improvements.

Expansion. See Addition or Expansion.

Fair market value means the assessed value divided by the ratio of assessed value to recommended value as last published by the Department of Revenue or the City Assessor for the City of Appleton.

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

Family home (A), adult means a use operated by a person or entity licensed under the authority of the Department of Health and Family Services and located in a private residence where care and maintenance above the level of room and board, but not including nursing care, are provided in the private residence by the care provider whose primary domicile is this residence for three (3) or four (4) adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in W.S.A. §51.01(5). Additionally, the residence must have been licensed under W.S.A. §48.62, as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (A) operated by a person or entity whose primary domicile is this residence and is certified under W.S.A. §50.032(1m)(b) is not subject to the standards listed in §23-52 of this ordinance.

Family home (B), adult means a use operated by a person or entity licensed as a foster home under the authority of the Department of Health and Family Services and is located in a private residence where care and maintenance are provided to children, the combined total of adults and children so served being no more than four (4) or more adults or children, if all of the adults or all of the children are siblings. Additionally, the residence must have been licensed under W.S.A. §48.62 as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (B) operated by a person whose primary domicile is this residence and is certified under W.S.A. §50.032(1m)(b) is not subject to the standards listed in §23-52 of this ordinance. Adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies are subject to the standards listed in §23-52 of this ordinance.

Family home (C), adult means a use operated by a person or entity licensed as a treatment foster home under the authority of the Department of Health and Family Services and is located in a private residence where care and maintenance are provided to children, the combined total of adults and children so served being no more than four (4). Additionally, the residence must have been licensed under W.S.A. §48.62 as a foster home or treatment foster home for the care of adults

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referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (C) operated by a person whose primary domicile is this residence and is certified under W.S.A. §50.032(1m)(b) is not subject to the standards listed in §23-52 of this ordinance. Adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies are subject to the standards listed in §23-52 of this ordinance.

**Family home (D), adult** means a use operated by a person or entity licensed under the authority of the Department of Health and Family Services or certified under W.S.A. §50.033(1m)(b) and is located in a private residence where three (3) or four (4) adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to seven (7) hours per week of nursing care per resident. An adult family home (D) is not subject to the standards listed in §23-52 of this ordinance.

**Farmers market** means a temporary or seasonal use selling home produced vegetables produce, or goods in a pre-designated area, where vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail.

**Farmers market, outdoor** means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot by two (2) or more temporary merchants are displaying and selling either products of the farm or garden or any combination of products of the farm and garden and commercially processed foods, household products, crafts and handmade items.

**Fence** means a structure constructed to enclose, screen, decrease noise levels, separate areas, or decorate areas of a lot. Fences include walls, hedges and berms meeting this definition. The term “Fence” shall not include “Guardrail”. Fences are further defined as to their general purpose as follows:

(a) **Boundary fence** means a fence placed on or near the boundary lines common with adjacent properties to indicate the location of such boundaries.

(b) **Sound barrier fence or berm** means a fence or berm constructed to decrease the noise levels along an abutting major roadway.

**Fireworks sales, outdoor** means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells small fireworks and related 4th of July items.

**Floor area, gross floor area** means the sum of the horizontal areas of all floors of a building or structure measured from the exterior face of the exterior walls, or from the centerline of a wall separating two (2) buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet.

**Floor area, useable** means the area to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Floor area shall be measured from the interior faces of the exterior walls. Area excluded from useable floor area includes: areas principally used for storage or processing of merchandise, hallways, stairways, elevator shafts, areas for utilities or sanitary facilities and mechanical areas.

**Foster home** means a use operated by a person or entity required to be licensed by W.S.A. §48.62(1)(a) and that provides care and maintenance for no more than four (4) children or, if necessary to enable a sibling group to remain together, for no more than six (6) children or, if the Department of Health and Family Services promulgates rules permitting a differing number of children, for the number of children permitted under those rules.

**Foster home, treatment** means any facility that is operated by a person or entity required to be licensed under W.S.A. §48.62(1)(b), that is operated under the supervision of the Department of Health and Family Service, a county department or a licensed child welfare agency, and that provides to no more than four (4) children care, maintenance and structured, professional treatment by trained individuals, including the treatment foster parents.

**Freight distribution or moving center** means a use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

**Frontage** means that boundary of a lot that abuts a dedicated public street.
Funeral home means a building used for the preparation of the deceased for display and burial, along with the rituals connected therewith, before burial or cremation. (See also Professional service)

Garage means a detached or attached accessory building or a portion of the principal building, which is designed primarily for storage and/or parking of passenger vehicles, trailers, recreational vehicles, and trucks of a rated capacity not in excess of ten thousand (10,000) pounds gross weight.

Gasoline sales means a use limited to the retail sales of gasoline, motor oil, lubricants, motor fuels, travel aides, minor automobile accessories and convenience goods to the public, but not including automobile maintenance shops.

Golf course means the use of a tract of land laid out with at least nine (9) holes for playing a game of golf and improved with tees, greens, fairways and hazards. A clubhouse, maintenance facility and shelters may be permitted as accessory uses.

Governmental facilities mean a use or buildings owned or occupied by federal, state and local governments.

Grade plane means a reference plane representing the average of the finished ground level adjoining the building at the exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plan shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1,829 mm) from the building, between the building and a point six (6) feet (1,829 mm) from the building.

Greenhouse or greenhouse nursery means a use that is devoted to the protection and/or cultivation of horticultural and floricultural products.

Group day care. See Day care, group.

Group home, adult means a use where five (5) or more adults, who are not related to the operator or administrator and who do not require care above intermediate level nursing care, reside and receive care, treatment or services that are above the level of room and board but that include no more than three (3) hours of nursing care per week per resident.

Group home for children means any facility operated by a person or entity required to be licensed by the department under W.S.A. §48.625, for the care and maintenance of five (5) to eight (8) children, as provided in W.S.A. §48.625. (Considered a community living arrangement) A group home for children is subject to the standards listed in §23-52 of this ordinance.

Group housing means a not for profit use where rooms or suites of rooms occupied by individuals not living together as a single family or families, may include common cooking facilities and resident management, but not group care providers. This category includes fraternities, sororities and dormitories; it does not include convalescent homes or community living arrangements.
Guardrail means a protective railing, other than a fence, placed along a parking lot, driveway or roadway which serves to provide protection from or to vehicular traffic.

H

Harvesting of wild crops means the use of land, in its natural state, to gather or collect naturally grown berries, fruits, nuts, mushrooms and seeds.

Hearing, informal means a hearing on a matter contained within this chapter that is not required by Wisconsin Statutes.

Hazardous waste. See Toxic Waste.

Hearing, public means the official hearing on a matter contained within this chapter that is required by Wisconsin Statutes and subject to legal notice requirements.

Helicopter landing pad means an area designed to be used for the landing and/or takeoff of one (1) helicopter, the temporary parking of one (1) helicopter, and other facilities as may be required by federal and state regulations, but not including operations facilities such as maintenance, storage, fueling or terminals.

Historic Preservation

(1) Archeological significance means subsurface or aboveground structural remains, artifacts or other natural or cultural features of past human life or activities and may yield additional information about prehistory or history.

(2) Architectural feature means ornamentation or decorative features attached to or protruding from the outer surface of a local historic structure, local historic site or contributing structure, including but not limited to gable cornices, columns, decorative ornaments, and trim.

(3) Architectural significance means importance of a building or structure based upon the distinctive characteristics of a time period, type or method of construction.

(4) Certificate of Appropriateness or COA means the certificate issued by the Historic Preservation Commission approving a historic preservation alteration, or demolition of a local historic structure, local historic site, or a contributing structure located within a local historic district.

(5) Contributing structure means a building, object or site located within the boundaries of a local historic district and identified as contributing to the historical, cultural, archeological or architectural significance of the local historic district.

(6) Cultural significance means the importance of an improvement parcel or natural area, including any object, building, improvement or structure therein, associated with an event, or series of events, significant to the cultural traditions of Appleton, the state or the nation.

(7) Demolition means razing, destroying, dismantling or in any manner causing partial destruction or total destruction of a local historic structure, local historic site, contributing structure or any improvement.

(8) Designation criteria means a set of established standards by which the local historical significance of an improvement parcel or natural area, including any object, building, improvement or structure is judged and eligibility for designation is determined pursuant to the provisions of this section.

(9) Destruction, partial means any act or process that razes, destroys, or dismantles less than seventy-five percent (75%) of any exterior feature, exterior wall of a local historic structure, local historic site or contributing structure.
(10) **Destruction, total** means any act or process that razes, destroys, or dismantles seventy-five percent (75%) or more of any exterior feature, exterior wall of a local historic structure, local site or contributing structure.

(11) **Director** means the City of Appleton Director of Community and Economic Development Department or designee.

(12) **Economic hardship** means in the content of Section 23-651, economic hardship occurs when a property owner is unable to sell a local historic structure, local historic site or contributing structure solely because of the designation. The property owner or owner’s agent must provide a written statement for the potential purchaser stating that they are of the requirement imposed by this section and are unwilling to make an offer on the property because of the local historic designation.

(13) **Economically feasible** means that the costs of the renovation/restoration of a local historic structure, local historic site or contributing structure when combined with the cost of the land, do not exceed the fair market value of the property after the renovation/restoration of the local historic structure, local historic site or contributing structure has been completed.

(14) **Event** means a specific occasion, circumstance, or activity that occurred on a property marking an important moment in Appleton’s, the state’s or the nation’s prehistory or history or a historic trend that made a significant contribution to the development of Appleton, the state or the nation.

(15) **Exterior feature** means the general design and arrangement of the outer surfaces of a local historic structure, local historic site or contributing structure, including the kind and texture of the building material, and the type and style of all windows, doors, and other architectural features.

(16) **Historic district, local** means an area of two (2) or more improvement parcels that together possess significant, common characteristics that are historically, aesthetically or architecturally significant to Appleton, the state or the nation and which has been designated as a local historic district pursuant to the provisions of this section.

(17) **Historic district plan, local** means a document that identifies and defines appropriate strategies for the protection of the architectural, historical and cultural features of a local historic district.

(18) **Historic preservation alteration** means those outer surface alterations made to a local historic structure, local historic site or contributing structure, such as:

a. Installation or alteration of windows, doors or other architectural features where the original opening is proposed to be enlarged, reduced, or altered.

b. Relocation.

c. Reconstruction.

d. Rehabilitation.

e. New construction of any improvement or additions to a local historic structure, local historic site or contributing structure.

(19) **Historic Preservation Commission** means the Commission created under this section.

(20) **Historic preservation repair** means the act or process of applying measures, except for painting, necessary to prolong or replace deteriorated, decayed or damaged existing exterior features of a local historic structure, local historic site or contributing structure or any part thereof by using materials that are identical in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to original materials. The term “historic preservation repair” includes the installation of roof singles, windows, doors or other architectural features where the original opening will not be enlarged, reduced or altered.
(21) **Historic site, local** means any parcel of land whose historic significance is due to a substantial value in tracing the history or prehistory of humanity or upon which a historic event has occurred and which has been designated as a local historic site pursuant to the provisions of this section, or an improvement parcel, or part thereof, on which is situated a local historic structure and any abutting improvement parcel, or part thereof, used as, and constituting part of, the premises on which the local historic structure is situated.

(22) **Historic structure, local** means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of Appleton, the state or the nation and which has been designated as a local historic structure pursuant to the provisions of this section.

(23) **Historical significance** means the importance for which an improvement parcel or natural area, including any object, building, improvement or structure has been evaluated and found to meet the designation criteria.

(24) **Identical (materials)** means for the purpose of Section 23-651, means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.

(25) **Important person or persons** means an individual or a group of individuals who has made significant contributions to Appleton, the state or the nation, including but not limited to medicine, politics, commerce, history, engineering and/or architecture.

(26) **Improvement** means any building, structure, or object constituting a physical betterment of real property, or any part of such betterment.

(27) **Improvement parcel** means a lot or parcel of land together with the buildings and structures thereon, which has been assigned a tax parcel number by the City Assessor’s Office. The term “improvement parcel” shall also include any unimproved area of land which has been assigned a tax parcel number by the City Assessor’s Office.

(28) **Member** shall mean a regular or alternate member of the Historic Preservation Commission.

(29) **Natural area** as defined by Section 23.27 Wisconsin State Statutes.

(30) **Object** means a term used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, moveable, an object is associated with a specific setting or environment. Examples of objects include boundary markers, fountains, monuments, mileposts, sculptures, murals, statues, carvings, or stained glass.

(31) **Owner’s agent** means a mortgagee, buyer in possession, receiver, executor, or trustee in control of a nominated or designated local historic site, local historic structure or contributing structure.

(32) **Reconstruction** means the act or process of depicting, by means of new construction, the exterior features and detailing of a local historic structure, local historic site or contributing structure in its historic appearance at a specific period of time and in its historic location.

(33) **Rehabilitation** means the act or process of making possible a code compliant use for a local historic structure, local historic site or contributing structure through repair, alterations, and additions while preserving those exterior features which convey its historic, architectural or cultural significance.

(34) **Relocation** means moving a local historic structure, local historic site or contributing structure from its original location.

(35) **Similar (materials)** means for the purpose of Section 23-651, means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.

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(36) **Work** means demolition or historic preservation alteration or repair.
(Ord 99-12, §1, 10-9-12; Ord 87-19, §1, 9-10-19)

**Home Garden** means an accessory use of land or roof top involving the growing and harvesting of fruits, vegetables, flowers, and other plant and herb products primarily for the consumption or enjoyment of the owner or tenant of such property.
(Ord 45-12, §1, 6-6-12)

**Home occupation** means the production of goods and/or services within a dwelling unit, attached garage or detached garage by a member(s) of the family residing in the residence, provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and which does not change the residential character of the neighborhood.
(Ord 28-11, §1, 1-15-11)

**Hospital** means a use providing inpatient and outpatient medical and surgical care, diagnosis and treatment for sick or injured persons including beds for overnight care, laboratories, training facilities, and/or other necessary accessory facilities.

**Hotel or motel** means a use offering lodging accommodations, in individual rooms or suites, on a daily rate to the general public and which may include additional accessory services such as restaurants, meeting rooms and personal fitness facilities.

**Human habitation** means the use of a vehicle for dwelling. Evidence of human habitation shall include activities such as sleeping, setting up housekeeping or cooking and/or any other activity where it reasonably appears, in light of all the circumstances, that a person or persons is using the vehicle as a living accommodation. The use of a vehicle for six or more consecutive hours for eating, resting, recreating and/or sleeping shall per se constitute “human habitation” for purposes of this chapter.

**Impervious surface** means an area that releases, as runoff, all or a large portion of the precipitation that falls on it, except for frozen soil. Roofops, sidewalks, driveways, parking lots, and streets are examples of surfaces that are typically impervious.

**Impervious surface ratio** means the measure of intensity of land use, determined by dividing the total of all impervious surfaces on a site by the gross area of the site.
Indoor kennel means any use where any person engages in the business of boarding, grooming, breeding, buying, letting for hire, training for a fee or selling of small animals in a completely enclosed building or structure.

Industrial use means a use at a scale greater than commercial uses that is engaged in custom, light and heavy manufacturing, production, processing, fabrication, assembly, packaging of finished goods, warehousing, wholesaling, and distribution of finished goods.

J

No Definitions.

K

Kennel. See Indoor kennel or Outdoor kennel.

L

Landscape business means a use engaged in the decorative and functional alteration, planting and maintenance of grounds. Such a use may engage in the installation and construction of such alterations and plantings and may store the necessary equipment and materials to perform such work.

Landscaping means alteration of the natural terrain, including the planting of trees, grass, shrubs and ground cover.

Loading space means that portion of a lot or space accessible from a street, alley or way, in or outside of a building, designed to serve the purpose of loading or unloading for all types of vehicles.

Lot means a tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds.

Lot area means any area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if fee title to such street is held by the owner of the lot.

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Lot area per unit means the lot area required by this chapter to be provided for each dwelling unit.

Lot, corner means a lot situated at the junction of, and abutting on, two (2) or more intersecting streets.

Lot coverage. See Impervious surface.

Lot depth means the horizontal distance between the front lot line and the rear lot line. Where these lot lines are not parallel, the lot depth shall be the length of a line joining the midpoints of the front and rear lot lines.

Lot, double frontage means an interior lot having frontage on the front and the rear of the lot.

Lot, interior means a lot other than a corner lot.

Lot, land-locked means a lot not fronting or abutting a public street and where access to the public street is limited to a narrow ingress/egress easement.

Lot line means a boundary line dividing one (1) lot from another lot or from a street or alley.

Lot line, front means that boundary of a lot which abuts a dedicated public street or private street. If a lot abuts two (2) or more dedicated public streets or two (2) or more private streets, all sides facing a dedicated public street or private street shall be considered the front. In the case of a land-locked lot, the front lot line shall be that lot line that faces the access to the lot.

Lot line, rear means that boundary of a lot which is opposite the front lot line with the exception of corner lots, in which case, the lot owner will have a choice to designate the rear and side yard. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be defined as a line ten (10) feet in length within the lots, parallel to, and at the maximum distance from the front lot line.

Lot line, side means any boundary of a lot that is not a front lot line or a rear lot line.

Lot of record means a lot which is part of a subdivision, the map of which has been recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds.
**Lot depth** means the average distance measured between the front lot line to the rear lot line.

**Lot width** means the maximum horizontal distance between the side lot lines of a lot measured along the front lot line. On a cul-de-sac, or curved street, the front setback line shall be used to determine minimum lot width.

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**M**

**Management of forestry and fish** means the protection and preservation of land, in its natural state, for woodlands, native species of woody plant material and watercourses, lakes and ponds for fish.

**Manufacturing, custom** means a use primarily engaged in the limited on-site production of goods by hand manufacturing which involves only the use of hand tools or domestic mechanical equipment that does not exceed two (2) horsepower each or a single kiln not exceeding eight (8) cubic feet in volume and the incidental direct sale to consumers. Typical custom manufacturing include: custom furniture, ceramic studios, glass blowing, candle making, custom jewelry, stained and leaded glass, woodworking shops, custom textile manufacturing and craft shops.

**Manufacturing, heavy** means a use engaged in the processing or production of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions which would generate objectionable or hazardous elements such as: heat, smoke, noise, odor, vibration, water pollution, electromagnetic disturbances, radiation or dust. Heavy manufacturing uses may include uses such as a metal foundry, metal stamping plant, electrical generation plants, extraction of mineral resources in an open mine, concrete processing facility, paper manufacturing facility from raw materials, asphalt manufacturing facility, petroleum refining, private garbage incineration and animal processing and rendering plants.

**Manufacturing, light** means a use engaged in the processing, repair, production, assembling, altering, converting, fabricating, finishing, processing or treatment of a product utilizing a relatively clean and quiet process which does not include or generate objectionable or hazardous elements such as smoke, noise, odor, vibration, water pollution or dust and which is operating and storing products and materials in a completely enclosed structure. Light manufacturing uses may include uses such as: assembly or maintenance of machinery, manufacture or assembly of cloth, wire or rubber products in
a completely enclosed building, chemical mixing or storage in a completely enclosed building, microchip manufacturing, assembly of precision instruments, assembly of electronic devices, assembly of medical devices, completely enclosed machine shops, cabinet making facilities and silk screening facilities.

**Marina or boat landing** means use providing docking and landing, moorage space, and related activities limited to the provisioning or minor repair of pleasure boats and yachts, and accessory facilities including gasoline sales and personal services.

**Market garden.** See Urban farm.

**Maximum extent practicable** means no feasible or practical alternative exists on the site, as determined by the Community and Economic Development Director, and all possible efforts to comply with the standards of this chapter and minimize potential visual, heat, glare, harmful or adverse impacts have been undertaken by the property owner and/or applicant.

**Metes and bounds description** means a description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by described lines or portions thereof.

**Microbrewery/Brewpub** means a use which manufactures, bottles and packages a total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages per calendar year and may or may not operate restaurant on the premises including storage and distribution of fermented malt beverages that have been manufactured on the premises.

**Mobile home** means a unit designed to be towed or transported and used as a residential dwelling, but does not include a unit used primarily for camping, touring or recreational purposes

**Mobile home park** means any tract of land containing two (2) or more sites for the placement of mobile homes.

**Mobile home sales lot** means a tract of land where mobile homes are displayed and sold including all accessory structures for office use.

**Motel.** See Hotel.

**Multi-tenant building** means any building or structure that is occupied by two (2) or more owners, renters or land uses, which is managed as a single property.

**Museum** means a use serving as a repository for a collection of natural, scientific, or literary curiosities, works of art, or other objects of interest, that are arranged, intended and designed to be used by members of the public for viewing, with or without an admission charge.

N

**Nonconforming lot** means a lot of record that does not comply with the lot width or lot area requirements of this chapter.

**Nonconforming building or structure** means a dwelling, building or structure that existed lawfully before the current zoning ordinance was enacted, but does not conform with one or more of the development regulations in the current zoning ordinance.

**Nonconforming use** means a use of land, a dwelling, a building or a structure that existed before the current zoning ordinance was enacted or amended, but does not conform with the use restrictions in the current ordinance.
Nursery, orchards or tree farm means the use of land for the establishment, care and harvesting of trees, shrubs, plants or fruit from fruit bearing trees.

Nursing or convalescent home means a home in which three (3) or more persons not of the immediate family are received, kept or provided with food, shelter or care for compensation, and by reason of chronic illness or infirmity are unable to care for themselves. A hospital, clinic or similar institution shall not be construed to be included in this definition.

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Occupancy means to reside in as an owner or tenant on a permanent or temporary basis.

Off-street loading area means an area or space designated for the loading and/or unloading of goods into or out of motor vehicles, including loading docks.

Off-street parking space means a hard surfaced area for one (1) motor vehicle with room to open doors on both sides of the motor vehicle that is directly accessible to a parking aisle if located in an off-street parking lot or area and having access to a driveway, street, alley or private street.

Off-street parking lot or area means a structure and use involving an open, hard surfaced area which contains off-street parking spaces, parking aisles and driveways for the maneuvering and parking of motor vehicles which is not located in a street or alley right-of-way.

Off-street parking lot and loading area construction means soil, gravel or bedrock being excavated or modified to allow for the construction of an off street parking lot and loading area, or the expansion of an existing off-street parking lot and/or loading area.

Off-street parking lot and loading area maintenance means removal and replacement of existing curbing or wheel stops located in existing off-street parking lots or loading areas. Line re-striping, crack sealing, seal coating existing off-street parking lots or loading areas, including patching which means removal and replacement of fifteen percent (15%) or less than the total square foot area of the existing surface and base course.

Off street parking lot and loading area construction means the existing surface course and base course are removed to allow for the installation, grading and compaction of a new base and surface course with no expansion of the off street parking lot and/or loading area, including patching which means removal and replacement of greater than fifteen percent (15%) of the total square foot area of the existing surface and base course.

Off street parking lot and loading area rehabilitation means the following:

(a) The existing surface course is removed above the existing base course and repaved with a new surface course, including the addition of base course to existing base course, the re-grading and/or compaction of the base course with no expansion of the off street parking lot and/or loading area; and

(b) The existing surface course is pulverized, graded and/or compacted on site with a new surface course being added on top of the base course with no expansion of the off street parking lot and/or loading area.

Off street parking lot and loading area resurfacing means removing a portion of the surface course but leaving at least one inch thickness of undisturbed surface course in place and adding a new layer of surface course over the undisturbed surface course with no expansion of the off-street parking lot and/or loading area.

Off street parking lot and loading area overlay means adding a new layer of surface course over the existing surface course with no expansion of the off street parking lot and/or loading area.
ZONING

Office means a use in a building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations.

Opaque fence means a solid (non-spaced) fence, alternating board on board fence, wall or exterior building wall with a gate that provides a solid or opaque barrier that blocks the transmission of light and visibility through ninety (90) percent or more of its surface area. Chain link fences and gates with slats are not considered to be opaque fences. A fence used in combination with evergreens that provide the equivalent screening as a required opaque fence may also be used to satisfy this definition.

Open space means a natural or manmade landscaped area not occupied by any structures, buildings or impervious surfaces.

Orchards, tree farms and nurseries. See Nursery, orchards or tree farm.

Ordinary high water mark means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Ordinary maintenance and repairs, building or structure means internal and external painting, decorating or the repair or replacement of doors, windows, nonbearing walls, fixtures, heating components, wiring, plumbing, siding, or roof shingles of an existing building or structure, not including off-street parking lots and loading areas.

Outdoor commercial entertainment means a use involving entertainment or recreation services offered outside of an enclosed building that is open to the general public for a fee. Examples include: driving ranges, miniature golf courses, Go-Kart tracks, volleyball courts, water parks, skating rinks, batting cages and amusement parks.

Outdoor display means an area of designated size located outside of an enclosed permanent building or structure used in conjunction with the a business that is occupying a permanent building or structure for the display of merchandise, goods, wares or tangible property normally sold, rented or leased within the business on the lot where the merchandise is sold, rented or leased.

Outdoor kennel means a use, outside of any building or completely enclosed structure, where any person engages in the business of boarding, grooming, breeding, buying, letting for hire, training for a fee or selling of small animals.

Outdoor sales area means the area of designated size located outside of an enclosed permanent building or structure where merchandise, goods, wares, articles or things are kept, displayed or sold.

Outdoor storage means an area of designated size located outside of an enclosed permanent building or structure used in conjunction with the business that is occupying a permanent building or structure on the same lot for the keeping of personal or business property, goods, wares, or merchandise that are not located in that specific area for customer viewing or immediate sale, in the same place for a period of more than seventy-two (72) hours.

Overlay zoning district means a district established to prescribe special regulations to be applied to a described area in combination with the underlying zoning district.

Owner means a person, individual firm, association, syndicate or partnership that appears on the recorded deed of the lot.

Painting/Craft Studio with alcohol sales means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and alcoholic beverages for consumption while they paint and/or make crafts.

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Painting/Craft Studio without alcohol sales means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and non-alcoholic beverages for consumption while they paint and/or make crafts.

Parcel. See lot.

Park or playground, private means the use of any land or open space, owned or controlled by a private or for profit entity, for passive or active recreation purposes.

Park or playground, public means the use of any land or open space, owned or controlled by a governmental entity, for passive or active recreation purposes.

Parking a hard surfaced area (e.g., asphalt, concrete or brick pavers) for one (1) motor vehicle with room to open doors on both sides of the vehicle that is directly accessible to an access aisle if located in a parking lot or otherwise accessible to a driveway, street or alley.

Parking aisle means that area adjacent to an off-street parking space which permits maneuvering of the motor vehicles entering and leaving an off-street parking space and having access to a driveway, street, alley or private street.

Parking facility underground means off-street parking spaces that is located below the finished grade of a building or located beneath a building, except for driveways. Parking ramps shall not be considered underground parking facilities.

Parking lot means a use involving an open, hard surfaced area used exclusively for the temporary storage of motor vehicles.

Parking ramp means a use involving a building or structure, or part thereof, composed of more than one (1) level, used or designed to be used for the parking of motor vehicles.

Pedestrian way means a use of land to be used by pedestrians.

Perimeter means the outer boundaries or borders of a lot, building, structure, use, or area.

Personal services mean any use which caters to customers’ needs, and which may include the incidental sale of products. Personal services may include barbershops, beauty shops, copying and duplicating services, dry cleaners, health clubs, pet grooming and tanning spas. Personal services shall not include adult entertainment or sexually oriented businesses.

Personal storage facility (self storage/mini-warehouse) means the primary use of a building containing individual, compartmentalized and controlled access spaces, rooms or lockers that are leased, rented or owned by different individuals for the storage of individual possessions or personal property, but may include outdoor storage areas for recreational vehicles as an accessory use.

Pervious surface means an area that releases, as runoff, a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or similar vegetated areas are examples of surfaces that are typically pervious.

Place of worship means a use involving a building, together with its accessory structures and uses, where persons regularly assemble for religious worship and which building, together with its accessory structures and uses, is maintained and controlled by a religious body organized to sustain public worship.

Plan, comprehensive. See Comprehensive plan.

Plan, development means a report, in map and text form, including depiction of the location, purpose, type of land use, circulation pattern, primary relationship between site elements and between the proposed development and surrounding development.

Plan, implementation means the final, detailed plan for a planned development (PD) that is filed following Common Council approval.
Plan, site means a map or graphics, prepared to scale, depicting the development of a tract of land, including the location and relationship of the structures, streets, driveways, recreation areas, parking areas, lighting, utilities, drainage, landscaping, existing and proposed grading, walkways and other site development information as related to a proposed development.

Planned development (PD) means a parcel of land or contiguous parcels of land controlled by a single landowner or by a group of landowners in common agreement as to control, to be developed as a single entity, the environment of which is compatible with adjacent parcels, and the intent of the zoning district or districts in which it is located.

Plat means a minor land division (Certified Survey Map), map, graphics or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record title. The plat is a recorded, legal document and must conform to all Wisconsin Statutes.

Portable storage unit means any container designed for temporary storage of property related to the owners or occupants of property and which is delivered and removed from the property.

Printing means a use for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes may include, but are not limited to: photocopying, blueprint, in-house computer rental and facsimile sending and receiving.

Prison or jail means a facility used for the incarceration of individuals who have violated federal, state or local laws.

Private drive means a roadway, not maintained by the City, providing access from a public street to a parcel or building.

Professional service means the use of office and other related spaces for such services as are provided by medical practitioners not intended for overnight care, dentists, attorneys, architects, real estate agents, engineers, funeral homes, banks, credit unions, savings and loan institutions, lending establishments and mortgage companies and other similar professions.

Proof means the ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percentage of ethyl alcohol by volume.

Proof gallon means a gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof. Proof is a method of measuring the alcohol content of spirits (intoxicating liquor). You calculate the proof of a spirits product by multiplying the percent of alcohol by volume by two (2). For example, a spirits (intoxicating liquor) product that has a 40% alcohol content by volume is 80 proof [40 multiplied by 2 = 80]. Converting U.S. gallons into proof gallons:

1. Multiply U.S. gallons by the percent of alcohol by volume.
3. Divide by 100.

Sample calculation:
1. 100 U.S. gallons x 40% alcohol by volume = 4000
2. 4000 x 2 = 8000
3. 8000/100 = 80 proof gallons

Property line means the legal boundaries of a parcel of property that may or may not coincide with platted lot lines or street right-of-way.

Public facility means a building and/or land owned and controlled and/or in which the use is operated by the City or other government agency, including fire stations, City Hall, public works and park facilities, library and the like.

Public institutional use means a use that provides a public service to the general public such as or similar as places of worship, libraries, educational institutions, hospitals, governmental facilities, land use for public purposes.
Public land means land owned or operated by municipal, school district, county, state or other governmental unit.

**Q**

No Definitions.

**R**

Recreation facility, commercial. See Outdoor commercial entertainment.

Recreation facility, non-profit means any land or facility operated by a non-profit organization and which is open to the public or members of the non-profit organization, that may include, but not be limited to, athletic fields, picnic areas and bike/hike trails.

Recreational vehicle means a structure or vehicle designed to be towed, hauled or driven and used for temporary living or sleeping purposes and equipped with wheels to facilitate movement from place to place including, but not limited to: campers, motorized homes and travel trailers.

Recycling and waste recovery center means a use in which recoverable resources such as newspapers, magazines, books and other paper products, glass, metal cans and other products are recycled, reprocessed and treated to return such products to a condition in which they may be used again for production.

Recycling center means a use whose purpose is to collect and process recyclable materials and transfer the processed materials off site, not including a junkyard. Processing shall be limited to the preparation of material for efficient shipment by such means as compacting, flattening, crushing, mechanical sorting, cleaning and loading, all done within the confines of a building. For the purposes of this zoning ordinance, recyclable material collection shall be limited to aluminum, glass, paper or plastic.

Recycling collection point means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items shall be allowed.

Refuse container means movable receptacle for collecting solid waste produced on-site for temporary storage until transferred for final disposal, including “dumpsters” or similar receptacles and bins.

Registered historic place open to the public means any use or structure that meets one (1) of the following criteria:

(a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

Replacement means a construction process of completely removing all or a portion of an existing building and/or
structure, so as to replace it with a new building or structure.

**Residential care apartment complex** means a place where five (5) or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than twenty-eight (28) hours per week of services that are supportive, personal and nursing services. “Residential care apartment complex” does not include a nursing home or a community-based residential facility, but may be physically part of a structure that is a nursing home or community-based residential facility.

**Residential care center for children and youth** means a facility operated by a child welfare agency licensed under W.S.A. §48.60, for the care and maintenance of children residing in that facility. (Considered a community living arrangement) A residential care center for children and youth is subject to the standards listed in §23-52 of this ordinance.

**Residential use** means the occupancy of a dwelling or dwelling unit by a family or congregate living arrangements.

**Research laboratory or testing facility** means a use in which scientific research, investigation, testing or experimentation is conducted, but not including the manufacturing or sale of products, except as incidental and accessory to the main purpose of the facility.

**Residence.** See *Dwelling*.

**Restoration** means a construction process of repairing or renovating all or a portion of an existing building and/or structure, so as to restore it to its former or original appearance or condition.

**Retail food establishment** means an establishment required to be licensed under Wisconsin Statutes §97.30, and all other commercial enterprises, fixed or mobile, where food is processed or sold or offered for sale at retail. The term shall also include all areas and facilities of such establishments used in conjunction therewith and all vehicles and equipment utilized in conjunction therewith. It includes retail grocery stores, meat markets, poultry markets, fish markets, delicatessens, bakeries, confectionaries, ice cream shops, cheese stores, convenience marts, milk cases, spice and herb shops, temporary retail food establishments and all other establishments where food is processed or sold or offered for sale at retail.

**Restaurant (with alcohol)** means a use involving a business establishment, with a valid liquor license issued by the City, with or without table service, within which food is prepared and offered for sale and consumption on or off the premises, to the customer, in a ready to consume state in individual serving or in non-disposable containers.

**Restaurant (without alcohol)** means a use involving a business establishment, without a liquor license issued by the City, with or without table service, within which food is prepared and offered for sale and consumption on or off the premises, to the customer, in a ready to consume state in individual serving or in non-disposable containers.

**Restaurant, fast food** means a use involving a business establishment whose principal business is the sale of previously prepared food, in disposable containers, directly to the consumer in a ready to consume state for consumption either within the restaurant or off-premises.

**Retail business** means a use that provides goods, wares, merchandise and/or services directly to the consumer, where such goods are available for immediate purchase.

**Rummage sale** means the sale of personal household goods on a property customarily used as a residence.

**Sale of seasonal agricultural products, outdoor** means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells products obtained through farming or agricultural activities such as pumpkins, fruits and vegetable of all kinds. For the purpose of definition, processed or prepared food products of any kind shall not be considered as seasonal agricultural products.

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Salvage yard or junk facility means a use including land, buildings or structures where junk, waste, discarded, salvaged or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, cordage, barrels, containers, etc., are brought, bought, sold, exchanged, baled, packed, stored or handled, including used lumber and building materials, equipment, wrecking yards and the like. This definition shall not include automobile salvage or wrecking yards or pawnshops and establishments for the sale, storage, or purchase of secondhand vehicles, clothing, furniture, appliances or similar household goods, all of which shall be useable, nor shall it apply to the processing of used, discarded or salvageable materials incidental to manufacturing activity on the same site or to recycling and waste recovery centers.

Screening means a method of visually shielding or obscuring an adjacent building, structure, use from another by fencing, walls, berms or densely planted vegetation.

Senior care facility. An establishment that provides medical care or housing exclusively to the elderly. A senior care facility shall include, but not be limited to, nursing homes, independent care facilities, elderly condominiums and elderly apartments.

Service structure means an accessory structure or equipment that provides support to the principal use or building on the lot. Service structures include, but are not limited to: propane tanks, trash and dumpster enclosures, electrical transformer boxes and above ground utility vaults.

Setback means the required distance the exterior wall of a structure must be located from a lot line, easement, right-of-way, adjacent building or other feature as indicated in this chapter.

Sexually-oriented business.

Booths/Cubicles/Rooms/Compartments/Stalls. Enclosures that are specifically offered to the public or member of a sexually-oriented establishment for hire or for a fee as part of a business operated on the premise which offers as part of its business the entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, “booth”, “cubicle”, “room”, “compartment”, or “stall” does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, are not open to any person other than employees nor shall this definition apply to hotels, motels or similar establishments licensed by the State of Wisconsin pursuant to Wisconsin law.

Operator. Any person, partnership or corporation operating, conducting, maintaining or owning any sexually-oriented establishment.

Predominant. Fifty-one percent (51%) or more of a business’ stock in trade, display space, gross floor space or retail sales in any one (1) month during the license year.

Sexually explicit material. Any picture, photograph, drawing, sculpture, motion picture, film or other visual representation of an image depicting uncovered or less than opaquely covered, post pubertal human genitals or pubic areas in a lewd fashion, or depicting human sexual intercourse, human or animal masturbation, bestiality, oral intercourse, anal intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person who is nude or clad in revealing or bizarre costumes in the context of a sexual relationship or sexual stimulation. The material shall be judged without regard to any covering, which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of these subsections. Works of art or of anthropological significance are not included within the definition of this paragraph.

Sexually-oriented bookstore. An establishment which includes, but is not limited to, booths, cubicles, rooms or stalls for the presentation of sexually-oriented entertainment, including sexually-oriented films, movies or live performances for observation by patrons therein, or which, as part of its regular and predominant course of conduct, offers for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, magazines or other
periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.

**Sexually-oriented cabaret.** A building or structure which features topless dancers, strippers, male or female impersonators, or similar entertainers that display specified anatomical areas or engage in specified sexual activities as defined in this section.

**Sexually-oriented entertainment.** Any exhibition of any motion pictures, live performances, displays or dances of any type, which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, appearing unclothed, or the removal of articles of clothing, to reveal specified anatomical areas.

**Sexually-oriented establishment.** Any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures; or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult-oriented establishment includes, but is not limited to, adult bookstores and adult motion picture theaters.

**Sexually-oriented motion picture theater.** An establishment which is significantly or substantially used for presenting motion picture films, video cassettes, cable television or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**Specified anatomical areas:**

1. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola;

2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**Specified sexual activities.** Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(Ord 201-11, §1, 9-27-11)

**Shelter facility** means a temporary place of lodging for homeless individuals or families.

**Shopping center** means a use involving a group of retail business establishments and/or service uses on a single site, under one (1) ownership, which leases spaces for separate establishments and which has common parking spaces and no lot lines between establishments.

**Showroom** means an indoor use or the indoor portion of a building or use where merchandise is on display for consumer viewing.

**Sign** means any device, fixture, placard, or structure that uses any writing, representation, emblem, logo, symbol, or other display illuminated or non-illuminated to advertise, announce the purpose of, or identify the purpose of a person or entity to attract attention, or to communicate information of any kind to the public, visible from any public place. Streamers, pennants, balloons and inflatable figures are not considered signs. For the purpose of removal, signs shall also include all sign structures as well as the sign itself.

**Site** means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
Small wind energy systems.

(1) “Meteorological tower” (met tower) is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

(2) “Owner” shall mean the individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.

(3) “Micro” or small scale turbines mean turbines that are sized in order to fit on top of building and are usually less than ten (10) feet in height.

(4) “Rotor diameter” means the cross sectional dimension of the circle swept by the rotating blades.

(5) “Small wind energy system” means a wind energy system that:

a. Is used to generate electricity;

b. Has an individual wind turbine nameplate capacity of 100 kilowatts or less;

c. Has an total installed nameplate capacity of 300 kilowatts or less;

d. Has a total height of 170 feet or less;

e. Meteorological tower; and

f. Micro towers placed on buildings.

(6) “Total height” means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

(7) “Tower” means the monopole, freestanding, or guyed structure that supports a wind generator.

(8) “Wind energy system” means equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by the Wis. Stat. §66.0403(l)(m)). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

(9) “Wind generator” means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(Ord 72-11, §1, 3-8-11)

Stacking space means a hard surfaced area (e.g., asphalt, concrete or brick pavers) designated as an area for temporary queuing of motor vehicles.

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof above it.

Story, half means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half (½) story containing independent apartment or living quarters shall be counted as a full story.

Street means a dedicated right-of-way affording primary access by pedestrians or vehicles to abutting property. Egress and ingress easements shall not be considered streets or roads.
Street, private means a street that has not been accepted by the City of Appleton or other governmental agency.

Structure means anything constructed or erected with a fixed location on the ground or attached or resting on something having a fixed location on the ground or anything assembled with a combination of materials to give support to something having a fixed location on the ground, including but not limited to off-street parking lots and loading areas, buildings, walls, fences, towers, outdoor lighting fixtures, signs and billboards.

Structure, principal means a structure or building in which the principal or primary use of the lot is conducted.

Structural alteration means any change, other than incidental repairs, which would prolong the life of supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

Surface course means the horizontal layer of hard surface material such as asphalt, concrete, brick, pervious pavers, or similar material, which supports the traffic load.

Tasting room means a use offering fermented malt beverages, wine or intoxicating liquor for consumption and/or retail sales on the premises where the fermented malt beverages, wine or intoxicating liquor is manufactured and/or at an off-premises location associated with premises. Tasting rooms may include food sales.

Tavern means a use, licensed by the City, to sell retail alcoholic beverages to be consumed on or off premises and which may provide dancing, entertainment and food. The term tavern shall include bar, pub, nightclub and cocktail lounge.

Temporary contractor’s offices means a temporary structure used as an office in conjunction with a construction project.

Temporary merchandise sales, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant or a group of temporary merchants displays and sells goods, wares and merchandise to the general public.

Temporary merchant includes any individual who engages in, conducts any temporary use in this City, either in one (1) location or by moving his or her place of business from one lot to another lot in the City, displaying or selling goods, wares or merchandise, or who solicits for such trade to the general public.

Temporary model home sales office means a dwelling temporarily used as a real estate office for a residential development or subdivision under construction for on-site real estate sales.

Temporary structure means a structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected or placed has ceased. For the purposes of this ordinance, mobile homes, travel trailers and any other structure that can be moved on wheels is considered as a temporary structure.

Tent means a temporary structure constructed of fabric or pliable material supported by any manner except by air or the contents that it protects, and is open without sidewalls or drops on seventy-five percent (75%) or more of the perimeter.

Tower and antenna for telecommunications services means a tower, pole, or similar structure that supports or acts as a transmission or reception device for licensed commercial wireless communications service including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

Towed vehicle storage means a use that provides for the temporary storage of vehicles that have been towed, but does not include disposal, permanent disassembly, salvage or accessory storage of inoperable vehicles.
Towing business means a use that provides for the removal of vehicles.

Townhouse. See Dwelling, multi-family.

Toxic and hazardous waste means waste materials as defined by the DNR and EPA.

Truck and heavy equipment sales and rental means a use involving the display and temporary storage of trucks or other equipment commonly used in commercial, industrial or construction enterprises for sale, lease or rental.

Undue hardship as used in connection with the granting of a variance means the property in question cannot be put to any reasonable use if established under conditions required by this chapter, and, where the plight of the landowner is due to circumstances unique to his property not created by the landowner, and the variance, if approved, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if any reasonable use for the property exists under the terms of the zoning ordinance.

Urban farm means the land or rooftops that are managed and maintained by an individual, group of individuals, organization or business for growing, harvesting, washing and packaging of fruits, vegetables, flowers and other plant and herb products with the primary purpose of growing food for sale and/or distribution.

Use means the purpose or activity for which the land, building or structure thereon is designated, arranged or intended, for which it is occupied, utilized or maintained.

Use, accessory means a use subordinate to and serving the principal use, building or structure on the same lot and customarily incidental thereto.

Use, permitted means a public or private use which of itself conforms to the purposes, objectives, requirements, regulations and performance standards of a particular district.

Use, principal means the primary or predominant use of any lot or parcel.

Use, special means a use that is permitted in a zoning district only if a special use permit is expressly authorized by the Common Council in accordance with the provisions in this zoning ordinance, but does not include a variance.

Use, temporary means a use that is established for a limited duration with the intent to discontinue such use upon the expiration of the time period. A temporary use is not a special event, which is regulated under the Municipal Code and the Special Event Policy.

Variance means a modification or variation of the provisions of this chapter where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of this chapter would cause an undue hardship.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway including, but not limited to a recreational vehicle, except railroad trains.

Veterinarian clinic means a use in a completely enclosed building, or portion thereof, designed or used for the care, observation or treatment of domestic animals by or under the supervision of a licensed veterinarian.

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Vision corner means triangular approach zones at street and/or driveway intersections intended to allow visibility of approaching traffic, pedestrians and bicycles and as regulated in Chapter 19, Traffic and Vehicles.

Warehouse means a use of a building or part of a building primarily involved in the indoor storage of goods and materials.

Wholesale facility means a use that maintains a stock of goods, other than samples on premises, and is engaged in the resale of commodities in quantity, to businesses, industries and institutions.

Winery means a use which manufactures, bottles and packages wine on premises including storage and distribution of wine that have been manufactured on the premises. The establishment shall hold the required liquor license issued by the state and/or city if, in addition to offering for sale fermented malt beverages manufactured on the premises, it also offers for sale fermented malt beverages and other alcohol manufactured by other producers other than the establishment.

No Definitions.

Yard means a required open space, on a lot between a lot line and a building or structure, which is unoccupied and unobstructed from the ground upward, except for permitted obstructions (see graphic on the following page and the Required Yard graphic).
Yard, front means an open space extending the full width of the lot, between the main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as provided herein, the depth of which shall be measured as the least distance between the front lot line and the front foundation wall of the main building. (See the Required Yard graphic.)

Yard, rear means an open space extending the full width of the lot, between the main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward, except as provided herein, the depth of which shall be measured as the least distance between the rear lot line and the rear foundation wall of the main building. (See the Required Yard graphic.)

Yard, side means an open space extending from the front yard to the rear yard, between the main building and the side lot line, unoccupied and unobstructed from the ground upward, except as provided herein, the depth of which shall be measured as the least distance between the side lot line and the side foundation wall of the main building. (See the Required Yard graphic.)

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ZONING

CORNER LOT EXAMPLES

INTERIOR LOT EXAMPLES

ODD-SHAPED LOT EXAMPLES

REQUIRED YARDS

BUILDING (ZONING) ENVELOPE
(TWO DIMENSIONAL)
Z

Zoning Administrator shall be the Inspections Supervisor.

Zoning amendment means a change of the zoning map or zoning text authorized by the City, either in the allowable use within a district, in the boundaries of a district or in a change to the ordinance text.

Zoning district means an area or areas within the limits of the City for which the regulations and requirements governing uses of land, premises and buildings are uniform, within which certain yards and open spaces are required and certain height limits are established for buildings.

Zoning district, overlay. See Overlay zoning district.

Zoning map means the map or maps incorporated into this chapter as a part thereof, designating the zoning districts.

ARTICLE III. GENERAL PROVISIONS

Sec. 23-31. Rules.

(a) The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:

1. Any use not herein expressly permitted is hereby expressly prohibited.

2. Sexually-oriented establishments are regulated pursuant to §23-390.

3. The singular number includes the plural and plural the singular.

4. The present tense includes the past and future tenses and the future, the present.

5. The word “shall” is mandatory and the word “may” is permissive.

6. The masculine gender also indicates the feminine and neutral genders.

7. Words or terms defined in this Chapter shall be construed as set forth in the definition section. Any words or terms not found in the definition section shall have the meaning set forth in The New Illustrated Book of Development Definitions by Harvey S. Moskowitz, the State Building Code or Uniform Dwelling Code. If a word or term is not defined, it shall have the meaning set forth in the latest edition of Webster’s New World College Dictionary.

8. The word “person” shall include any firm, association, organization, partnership, trust, company or corporation, as well as an individual.

9. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”.

10. The words “Community and Economic Development Director” or “Inspections Supervisor” or “Director” shall include his or her designee.

11. Application fees shall be paid as on file in the Office of the City Clerk.

Sec. 23-32. Application of this chapter.

This ordinance applies to all land and land development within the jurisdictional limits of the City of Appleton, Wisconsin.

This ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous zoning, subdivision or related code. Furthermore, this code shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

(a) In their interpretation and application, the provisions of this chapter shall be minimum requirements for the promotion of the public health, safety, morals, comfort, convenience and general welfare of the community.

(b) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(c) From and after the effective date of this chapter:

1. The use of all land and every building or portion of a building erected, altered in respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the City, shall be in conformity with the provisions of this chapter.
(2) Any existing building or structure and any existing use or properties not in conformity with the regulations herein prescribed, shall be regarded as nonconforming, but may be continued, extended or changed, subject to the special regulations herein provided in §23-42 with respect to nonconforming properties or uses.

(d) A nonconforming use in violation of the provisions of the zoning ordinance that this chapter supersedes shall not be validated by the adoption of this chapter unless it is in compliance in all respects.

(e) If there are found to be differences between the meaning or implication of the text of this code and any drawing, table, figure, title or section heading, the text of this code shall apply.

(f) See §23-50 for exceptions to structures that may appear nonconforming.

(Ord 61-94, §5, 5-18-94)

Sec. 23-33. Private agreements.

This chapter does not revoke or repeal any easement, covenant, or any other private agreements which are legally enforceable, provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the requirements of this chapter shall govern.

(Ord 61-94, §5, 5-18-94)

Sec. 23-34. Separability.

It is hereby declared to be the intention that the provisions of this chapter are separable in accordance with the following:

(a) If any court of competent jurisdiction shall determine any provisions of this chapter to be invalid, such judgment shall not affect any other provisions of this chapter not specifically included in said statement.

(b) If any court of competent jurisdiction shall determine invalid the application of any provision of this chapter to a particular property, building, or structure, such judgment shall not affect the application of said provision to any other property, buildings or structure not specifically included in said judgment.

(Ord 61-94, §5, 5-18-94)

Sec. 23-35. Transition rules.

This section addresses the applicability of new substantive standards enacted by this ordinance to activities, actions, and other matters that are pending or occurring as of the effective date of this ordinance.

(a) Any application that has been filed with the Community and Economic Development Department or Inspections Division and has been determined to be fully complete by the City, prior to the effective date of this ordinance, shall be regulated by the terms and conditions of the ordinances and codes that were in place at the time of filing. However, all administrative procedures and penalties shall follow those set forth by this code.

(b) Except as noted otherwise, any application for a Zoning District Map Amendment that was filed, and has been determined to be fully complete by the City, prior to the effective date of this ordinance, shall continue through the process to completion pursuant to the terms and conditions of the ordinances and codes that were in place at the time of filing.

(c) Planned development districts in force at the time of adoption of this ordinance shall continue to be controlled under the standards of the existing planned development district until rezoned by Common Council. However, processes for approving or amending adopted final development plans, plats, certified survey maps, or site plans, shall follow the procedures of this ordinance.

(d) Any application before the Board of Appeals or any application that has been filed with the Community and Economic Development Department or Inspections Division and is fully completed, prior to the effective date of this ordinance, shall continue the process pursuant to the terms and conditions of the ordinance that were in place at the time of filing, provided that:
(1) If such application is no longer required by the terms of this ordinance, the application will be dismissed; or,

(2) If the proposed use or development requires additional approvals from the Board of Appeals pursuant to the terms of this ordinance that were not required under the previous ordinance, the application will be amended to include only those additional approvals that are now required and within the purview of the Board of Appeals.

(e) All new building sites shall meet the requirements of this ordinance unless, prior to the effective date of this ordinance:

(1) A building permit was issued and is still valid; or,

(2) A parcel was approved as a buildable lot by the Common Council, Plan Commission, Community and Economic Development Director or the Board of Appeals prior to the effective date of this code.

(f) Previously Approved Special Use Permits. All special use permits approved prior to the effective date of this chapter or subsequent amendments to this chapter shall remain in full force and effect under the terms and conditions of the special use permit approval. Any expansions or change of use of a previously approved special use permit may require compliance with the nonconforming building, structure, use and lot and/or special use permit provisions of this chapter.

(Ord 26-20, §1, 03-25-20)

Sec. 23-36. Repeal of conflicting ordinances and effective date.

All ordinances or parts of ordinances in conflict with this zoning ordinance, or inconsistent with the provisions of this chapter, are hereby repealed to the extent necessary to give this chapter full force and effect. This chapter shall become effective on June 8, 2004.

(Ord 61-94, §5, 5-18-94)

Sec. 23-37. Zoning districts.

(a) The zoning districts are so designed to assist in carrying out the intents and purposes of the comprehensive plan and are based upon the comprehensive plan which has the purpose of protecting the public health, safety, comfort, convenience and general welfare. Therefore, the incorporated territory of the City of Appleton, Wisconsin, is hereby divided into the following zoning districts wherein regulations are uniform for each class or type of building or structure, or use, throughout each zoning district in order to:

(1) Classify, regulate, and restrict the location of residences, commercial establishments, industries, institutional, recreation and other land uses, and the location of buildings designed for specific uses;

(2) Assure the proper relation and conformity of new buildings and structures to the fabric of existing surrounding neighborhoods;

(3) Regulate and limit the heights of buildings and structures;

(4) Regulate the percentages of lot areas which may be covered by impervious surfaces;

(5) Establish setback lines, sizes of yards and other open spaces surrounding buildings;

(6) Regulate the density of the City of Appleton, Wisconsin; and

(7) To carry out the intent and purposes established in the VISION 20/20: Comprehensive Plan for the City of Appleton, Wisconsin.

(b) The City is hereby divided into the following zoning districts and zoning overlay districts:
(c) Any land use that is not listed or that is questionable as a permitted use, accessory use or special use in the established district, where such use is proposed, is not allowed unless determined otherwise, through interpretation of this intent of the ordinance and the purpose for each individual district.

(1) The Community and Economic Development Director may determine that an unlisted or questionable use may be placed if it is significantly similar to another use that is a principal use, accessory use or as a special use.

(2) The decision of the Community and Economic Development Director may be appealed to the Plan Commission.

(3) In no instance may this interpretation be construed as a process for establishing a use variance.

Sec. 23-38. Official zoning map.

The Official Zoning Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

Amendments to the Official Zoning Map may be made from time to time as provided for in §23-65, Zoning amendments, of this chapter. Such changes shall be made promptly following action by the Common Council by the Community and Economic Development Director, who shall be responsible for maintaining the Official Zoning Map. The Community and Economic Development Director shall annually provide the City Clerk with an updated and certified copy of the current Official Zoning Map.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret due to the nature or number of changes, the Common Council may, by resolution, adopt a new Official Zoning Map that shall, to the extent possible, duplicate the accuracy of the damaged, destroyed or lost map.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96)


Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;
(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(c) Boundaries indicated as approximately following City limits shall be construed as following such City limits;

(d) Boundaries indicated as following railroad lines shall be construed to be the centerline of the railroad right-of-way;

(e) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;

(f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(g) Boundaries indicated as dividing a lot or plot of land shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(h) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (a) through (g) above, the Community and Economic Development Director shall interpret the district boundaries.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96)

Sec. 23-40. Application of district regulations.

(a) The regulations set by this chapter within each district shall be minimum or maximum regulations and shall apply uniformly to each class or kind of structure or land except as provided:

(1) No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(2) No structure shall hereafter be erected or altered:

a. To exceed the height;

b. To accommodate or house a greater number of families;

c. To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required; or

 d. To be in any other manner contrary to the provisions of this chapter.

(3) Every building hereafter erected or moved shall be on a lot having frontage on a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and off-street parking.

(4) No more than one (1) principal building shall occupy a single lot, except where a lot or tract is in a PD district or used for multi-family, educational, institutional, motel, hotel, commercial or industrial purposes. In such cases, more than one (1) principal building may be located upon the lot or tract, provided such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

(5) No part of a yard or other open space or off-street parking or loading space required in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as specified in §23-172, Off-street parking and loading standards and §23-601, Landscaping and screening standards, of this chapter.

(6) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.
(7) Temporary structures are prohibited for use as permanent principal or accessory buildings or structures in all zoning districts, except for mobile homes.

(b) There shall not be more than one (1) zoning district on any parcel of land with the exception of the application of an overlay district which has been applied over a base zoning district and which has been approved by the City.

(Ord 61-94, §5, 5-18-94; Ord 160-94, §1, 12-21-94; Ord 142-08, §1, 10-7-08)

Sec. 23-41. Exemptions.

The following uses are exempt from the permit provisions of this chapter as stated below:

(a) Essential services as defined in Article II are exempted from the permit provisions of this chapter, provided that all such systems shall be placed underground when located within a residentially zoned district unless otherwise authorized by action of the Plan Commission.

(b) State installed sound barrier fences shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses and structures.

(c) Radio and television antennas not exceeding sixty (60) feet in height shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses permitted in residential and non-residential districts.

(d) Dish antennas not exceeding one (1) meter in diameter shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses permitted in residential and non-residential districts.

(Ord 61-94, §5, 5-18-94; Ord 87-08, §1, 5-27-08)

Sec. 23-42. Nonconforming buildings, structures, uses and lots.

(a) Purpose. Within the Zoning Districts established by this chapter, there may exist uses, buildings, structures and lots that do not conform to the applicable provisions of this chapter, the purpose of this section is to specify those circumstances and conditions under which these nonconforming uses, buildings, structures, and lots may be allowed to continue.

(b) Continuance of nonconforming principal or accessory buildings or structures. A nonconforming principal or accessory building or structure existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming principal or accessory building or structure shall be subject to the following requirements:

(1) Principal building or structure alterations. Alterations within the existing footprint of a nonconforming principal building or structure may be allowed provided that the alteration does not increase the degree of the existing nonconformity(ies) of the nonconforming principal building or structure.

(2) Principal building or structure additions or expansions. Additions or expansions made to nonconforming principal buildings or structures may be permissible in the front, side and rear yards provided all of the following requirements of this subsection are complied with:

a. Side yard setback. The addition or expansion shall not encroach into the required principal building or structure side yard setback and required building and/or structure separation setback of the applicable zoning district in which it is located, unless otherwise stated in this chapter;

b. Front and rear yard setback. The addition or expansion shall not further encroach beyond the existing nonconforming front or rear yard setbacks of the existing nonconforming principal or structure, unless otherwise stated in this chapter;
c. **Other requirements.** The addition or expansion shall conform with all other requirements of the applicable zoning district in which it is located and all other applicable provisions of this chapter, unless otherwise stated in this chapter.

(3) **Accessory building or structure alterations.** Alterations within the existing footprint of a nonconforming accessory building or structure may be allowed provided that the alteration conforms with the requirements of the applicable zoning district in which it is located, and provided the alteration conforms with all other applicable provisions of this chapter.

(4) **Accessory building or structure additions or expansions.** Additions or expansions made to nonconforming accessory buildings or structures may be permissible provided that all of the following requirements of this subsection are met and provided the addition or expansion conforms with all other applicable provisions of this chapter.

a. The existing accessory building or structure is not located closer than two (2) feet from the side or rear lot line.

b. The addition or expansion shall be located a minimum of five (5) feet from the principal building or structure.

c. The addition or expansion shall not result in new construction which exceeds fifty percent (50%) of the original size of the accessory building or structure or two hundred (200) gross square feet, whichever is less.

d. The addition or expansion shall not further encroach beyond the existing nonconforming front, side or rear yards setback.

(5) **Restoration or replacement of certain nonconforming principal or accessory buildings or structures.**

a. A nonconforming principal or accessory building or structure may be restored, replaced or repaired to the size, location and use that it had immediately before damage or destruction occurred, and without regard to the cost of such restoration, replacement, repairs or improvements if both of the following apply:
1. The nonconforming principal or accessory building or structure was damaged or destroyed on or after March 2, 2006.

2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

b. The size of such nonconforming principal or accessory building or structure or to which this subsection applies may be enlarged if such enlargement is made necessary for the principal or accessory building or structure to comply with applicable state and federal requirements.

(6) Relocation of a principal or accessory building or structure. No principal or accessory building or structure shall be moved, or placed in whole or in part, to any other location on the same or any other lot unless every portion of such building or structure which is moved or placed and, the use thereof, conforms to all of the requirements of the applicable zoning district in which it is located, and provided the principal or accessory building or structure conforms with all other applicable provisions of this chapter.

(7) Principal or accessory building and structure ordinary maintenance and repairs. Ordinary maintenance and repairs within the existing footprint of a nonconforming principal or accessory building or structure may be allowed provided that the ordinary maintenance and repair does not increase the degree of the existing nonconformity(s) of the nonconforming principal or accessory building or structure.

(8) Nonconforming parking lots or loading areas. A nonconforming off-street parking lot or loading area existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming off-street parking lot or loading area shall be subject to the following provisions:

a. The maintenance, overlay, resurfacing, rehabilitation, reconstruction or expansions to a nonconforming off-street parking lot or loading area shall not increase the degree of the existing nonconformity(ies) of the nonconforming off-street parking lot and/or loading area.

b. Wherever possible, when rehabilitation or reconstruction occurs to a nonconforming off-street parking lot or loading area, all applicable off-street parking lot and/or loading area standards governing design, interior landscaping, perimeter landscaping and required amount of parking and loading spaces identified in this chapter shall be complied with. Sites that are physically constrained from complying with all aforementioned off-street parking lot and/or loading area standards shall comply to the maximum extent practicable, as determined by a site plan review pursuant to §23-570.

c. An expansion of a nonconforming off-street parking lot or loading area shall require that the expanded portion conform to the all applicable provisions of this chapter.

(c) Continuance of nonconforming use of building, structure, or land. The nonconforming use of a building structure or land existing on the effective date of this chapter or subsequent amendments to this chapter may be continued. However, said nonconforming use of a building, structure or land shall be subject to the following requirements:

(1) Change in tenancy or ownership. A historically allowed nonconforming use of a building, structure or land may be transferred to a new tenant or owner provided; that the historically allowed nonconforming use is not expanded, relocated or discontinued as identified in subsections (2), (3) and (5) of this section.

(2) Expansions. The nonconforming use of a building, structure or land shall not be enlarged or expanded, unless otherwise specified in this chapter.

(3) Relocation. No nonconforming use of a building, structure or land shall be moved or placed in whole or in part to any other portion of the lot, parcel or site than was occupied by such use at the time of the effective date of this chapter or subsequent amendments to this chapter.

(4) Ordinary maintenance and repairs.

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a. Ordinary maintenance and repairs required to keep a building, structure or use in a safe condition, or when necessary to comply with state or local building codes or property maintenance requirements may be allowed provided that ordinary maintenance and repair conforms with the applicable requirements of this chapter, and there is not an identifiable change in or expansion of the historically allowed nonconforming use.

b. Off-street parking lot and loading area maintenance, overlay, resurfacing or rehabilitation may be allowed provided that maintenance, overlay, resurfacing or rehabilitation activity conforms with the applicable requirements of this chapter and there is not an identifiable change in or expansion of the historically allowed nonconforming use of land as a parking lot or loading area use.

(5) Discontinuance of nonconforming use. The nonconforming use of a building, structure or land which has been discontinued for a period of twelve (12) consecutive months, shall be deemed abandoned and the future proposed use of the building, structure or land shall be in conformity with the use requirements of the applicable zoning district in which it is located.

(d) Establishing the existence of a nonconforming use. The burden of proof that a nonconforming use of structure, building or land existed on the effective date of this chapter or subsequent amendments to this chapter shall be the responsibility of the property owner. Any property owner requesting to have a nonconforming use validated under the terms of this chapter or subsequent amendments to this chapter, shall make a request to the Inspections Supervisor for the issuance of a Certificate of Occupancy in accordance with this subsection.

(1) Certificate of Occupancy for a nonconforming use. In order to have a nonconforming use of structure, building or land validated under the terms of this chapter or subsequent amendments to this chapter, the property owner may request a certificate of occupancy be issued from the Inspections Supervisor. The property owner shall present historical data to the Inspections Supervisor that demonstrates the nonconforming use occupied the land, building or structure in conformance with the use regulations of the applicable zoning ordinance(s) preceding the effective date of this chapter or any subsequent amendments to this chapter and did not discontinued for a period of twelve (12) consecutive months between the time the use became nonconforming and the date when the request for a certificate of occupancy is submitted to the Inspections Supervisor.

a. The decision of the Inspections Supervisor as to issue or not issue a certificate of occupancy shall be based upon the information provided by the property owner of the property on which the nonconforming use is located and on any other information available to the Inspections Supervisor as public record. Information may include, but shall not be limited to historical data related to building permits, certificate of occupancy permits, licenses, tax records, sales receipts, business records, photographs, site plans, utility information, assessment information, inspection records, affidavits from the owner or neighboring property owners who have knowledge of the existence of the use.

(e) Nonconforming due to public acquisition. When the federal, state, county or city government acquires land for public use including dedication, condemnation or purchase, the affected property or structure shall not be considered nonconforming if the property or structure was conforming prior to the federal, state, county or city government’s action. All affected properties or structures shall be documented in the Inspections Division. This will be effective as of June 1, 1996 and not be retroactive.

(f) Nonconforming lots of record. Nonconforming lots of record existing on the effective date of this chapter or subsequent amendments to this chapter, may be built upon, under the following conditions and provided all other applicable provisions of this chapter are met.

(1) The minimum side and rear yard setbacks shall be proportionally applied as based on the proportion that the nonconforming lot is smaller than the minimum lot size required in the zoning district the lot is located. Fractional numbers shall be rounded up to the nearest whole number.

(2) In no case, however, shall a side yard setback be less than five (5) feet.
(3) The minimum front yard setback shall be as established by the zoning district in which the lot is located without reduction unless abutting structures are closer to the front lot line. In that case, the adjusted front yard setback shall be the average of the existing front yard setbacks of the abutting structures on each side.

(4) All other applicable development standards of the zoning district shall be complied with.

Example:

Minimum district lot size – 8,000 square feet.
Existing lot size – 6,000 square feet.
Minimum district yard setbacks:
Front – Twenty (20) feet
Side – Eight (8) feet
Rear – Twenty-five (25) feet

Existing lot size is seventy-five percent (75%) the size of the minimum district lot size: \((6,000/8,000) = 0.75\)

Apply the seventy-five percent (75%) to side and rear yard setback requirements of the district:
\[0.75 \times 8' = 6'\]
\[0.75 \times 25 = 18.75'\]

Adjusted minimum side yard setback requirement is six (6) feet and adjusted minimum rear yard setback requirement is nineteen (19) feet.

(g) Special provisions for manufactured home communities. A manufactured home community licensed under Section 101.935, Wis. Stats., that is a legal nonconforming use continues to be a legal nonconforming use notwithstanding the occurrence of any of the following activities within the community:

(1) Repair or replacement of any manufactured homes.

(2) Repair or replacement of infrastructure.

(h) Special provisions for mobile home and manufactured homes not in a mobile home park. A mobile home or a manufactured home not located in a mobile home park is considered a nonconforming use and must comply with Section 11-4 of the Municipal Code of the City of Appleton.

Sec. 23-43. Accessory uses, buildings and structures.

(a) Authorization. Accessory uses, buildings and structures are permitted in any district in connection with any principal use lawfully existing within such district.

(b) Purpose. Authorization and limitation of specific accessory uses, buildings and structures in the appropriate districts is required to accommodate accessory activities with sufficient impact to require public regulation and having such a relationship to certain principal uses as to require accommodation within the same district.

(c) Permitted accessory uses and structures. Accessory uses, buildings and structures include, but are not limited to, the following:

(1) Attached garages, attached carports, detached accessory buildings such as detached garages, detached carports, storage sheds, tool/garden sheds, gazebos, children’s play houses, pavilions or similar buildings.

(2) Decks and patios.
(3) Parking lots, loading docks, refuse containers and dumpster enclosures.

(4) Swimming pools and pool houses including, but not limited to, pool service structures, pumping equipment, and filtering equipment accessory to a principal building and limited to use by the occupants thereof and their guests. (See Chapter 4, of the Municipal Code Article VII. Swimming Pools)

a. All pool service structures, including, but not limited to, pumping equipment, and filtering equipment shall be screened from view of adjacent properties to the maximum height of the unit.

(5) Tennis courts, basketball courts or similar recreational facilities accessory to a principal building or use and limited to use by the occupants thereof and their guests. Fixed lighting shall be so arranged to prevent a direct view of the lamp or reflection device from adjacent property.

(6) Building management offices when limited to the management of the building in which such office is located or a complex of buildings forming an integrated development of which such building is a part.

(7) Transformer boxes may be permitted in the front yard provided that:

a. If the box exceeds five (5) feet wide by five (5) feet long by four (4) feet in height the box shall meet the minimum front yard setback of the zoning district in which it is located.

b. If the box is smaller than five (5) feet wide by five (5) feet long by four (4) feet in height, the box may be located anywhere in the front yard.

c. The box shall be screened in accordance with §23-601(f)(22) where visible from the public right-of-way.

d. The access door to the box is encouraged to be located opposite the side facing the public right-of-way.

e. The Diggers Hotline is contacted prior to the siting of the box.
(8) Radio, satellite, and television antennas not exceeding sixty (60) feet in height do not require a building permit, but are subject to the following:

a. Radio and television antennas:

1. Antennas in residential zones that are roof-mounted shall not extend higher than twenty-five (25) feet above the peak of the roof, except a single-vertical pole antenna may extend to thirty (30) feet above the peak of the roof.

2. Not more than one (1) ground-mounted antenna shall be permitted on any lot and shall be erected or maintained to the rear of the main building in all districts. No portion of a ground-mounted antenna or its guy wires may extend into a required setback area for an accessory structure.

3. The antenna including guy wires, supporting structures and accessory equipment shall be located and designed so as to minimize the visual impact on surrounding properties and from public streets. The materials used in constructing the antenna should not be unnecessarily bright, shiny, garish or reflective.

4. Antennas shall be installed to meet all structural specifications of the manufacturer. All components and materials shall be noncombustible and corrosive-resistant. Self-designed and homemade supporting structures for antennas subject to this chapter shall require engineering and/or design analysis by a registered engineer prior to installation.

5. Clearance of antennas or any supporting guy wires from power or communication lines shall be regulated by Volume 1 of the Wisconsin State Electrical Code.

b. Satellite dish antennas:
1. Satellite dish antennas may either be ground-mounted or roof-mounted, but shall maintain standards as required in Section 23-43(c)(8)(a.1. through 5. of this section. Dish antennas over three (3) feet in diameter shall require a building permit.

2. The maximum height of a ground mounted satellite dish shall be ten (10) feet.

3. Ground-mounted satellite dishes over three (3) feet in diameter shall be setback a minimum distance equal to its height. In no case, however, shall the satellite dish be erected any closer than the setback line of the principal structure.

4. Roof mounted satellite dishes shall not exceed the roof height by more than four (4) feet.

5. Satellite dishes shall be of one color that is compatible with its surroundings.

6. No advertising, logo or corporate symbols other than that of the dish manufacture shall be permitted on the dish.

(9) Home garden.

(d) General regulations for accessory uses, buildings and structures. All accessory uses, buildings and/or structures shall abide by the following general regulations:

(1) No accessory use, building and/or structure shall be constructed or established on a lot prior to the principal use or building being present or under construction.

(2) When attached to the principal building, accessory buildings and/or structures shall comply with all requirements of this chapter applicable to the principal building, unless otherwise stated, including, but not limited to setback requirements, building height limits, maximum lot coverage standards.

(3) No truck, truck tractor, truck trailer, canopy or bus, or portion thereof, shall be used for, storage purposes, as a principal use and/or structure or an accessory use and/or structure in any zoning district, unless otherwise stated in this chapter.

(4) Accessory uses, buildings and/or structures, shall not contain toilet facilities, unless specifically authorized by the Board of Appeals

(5) Accessory uses, buildings and/or structures shall be located on the same lot as the principal use, structure or building.

(6) Only one (1) detached garage or detached carport shall be permitted on a lot whose principal use is a single or two-family dwelling.

(7) Detached accessory buildings shall not be used as a secondary dwelling.

(e) Use Restrictions. All accessory uses, buildings and/or structures shall abide by the following use restrictions:

(1) When associated with Residential Dwellings.

a. The enclosed parking or storage of any motor vehicle within an attached garage, attached carport, detached garage, and/or detached carport shall be restricted to vehicles owned or leased by the occupant(s) of the lot upon which the vehicles are parked or stored.

b. The enclosed parking or storage of not more than one (1) commercial or service vehicle rated at Class A-D may be permitted within an attached garage, attached carport, detached garage, and/or detached carport, provided that such vehicle is used by the occupant(s) of the lot upon which the vehicle is parked or stored.
c. The outdoor parking or storage of not more than one (1) commercial or service vehicle rated at Class A-D or school bus, may be permitted, provided that such vehicle is parked or stored in the side yard and/or rear yard only and used by the occupant(s) of the lot upon which the vehicle is parked or stored. (Also see §19-91 of the Municipal Code)

d. The outdoor parking or storage or enclosed parking or storage within a fully enclosed structure of not more than one (1) trailer or recreational vehicle including, but not limited to, boat and boat trailer (except for boats or boat trailers greater than twenty-six (26) feet in length), pickup camper top, camping trailer, utility trailer, camping vehicle, snowmobile and trailer, jet-ski and trailer, motor home or fishing shanty, may be permitted provided:

1. Such trailer or recreational vehicle is owned or leased by the occupant(s) of the lot upon which the trailer or recreational vehicle is parked or stored.

2. Such trailer or recreational vehicle shall not be used for business, living, sleeping or housekeeping purposes. (Also see §19-92 of the Municipal Code)

3. The outdoor parking or storage of such trailer or recreational vehicle shall be located in the side yard and/or rear yard only. (Also see §19-91 and §19-92 of the Municipal Code)

4. Such trailer or recreational vehicle shall not be permanently connected to sewer lines, water lines or electricity.

5. Such trailer or recreational vehicle shall not be used for the storage of goods, materials or equipment not normally a part of or essential for immediate use in that vehicle or trailer.

(2) When associated with Non-Residential Dwelling.

a. The enclosed parking or storage of any motor vehicle within an attached garage, attached carport, detached garage, and/or detached carport shall be restricted to vehicles used by the occupant(s) of the lot upon which the vehicles are parked or stored.

(f) Setback, height and lot coverage restrictions. Accessory buildings and/or structures, shall meet the following setback, height and lot coverage requirements:

(1) Residential districts:

a. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a five (5) foot separation from a principal building or any other accessory building and/or structure on the same lot.
b. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain the same side yard setback required of the principal building for the first sixty (60) feet of lot depth and a minimum of three (3) feet from the side lot line thereafter.

c. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum setback of three (3) feet from the rear lot line, except along an improved public alley where a minimum of a five (5) foot setback is required.

d. When not attached to the principal building, on corner lots, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum of a three (3) foot setback from the side and rear lot line. However, for the yard that is abutting a street, the accessory building and/or structure shall meet the principal building front yard setback requirement of the abutting property.

e. When not attached to the principal building, accessory structures, except for parking lots and driveways shall be prohibited in the front yard, unless otherwise stated in this chapter.
f. When not attached to the principal building, accessory structures, except for radio, television and satellite dish antennas, shall not exceed twenty (20) feet in height.

g. When not attached to the principal building, accessory structures that exceed fifteen (15) feet in height, shall be located on the lot in accordance with the setback requirements of the principal building, as established for the zoning district in which it is located.

h. Detached accessory buildings shall not exceed fifteen (15) feet in height and shall not exceed one (1) story in height.

i. Accessory buildings located on a R-1A, R-1B, R-1C or R-2 zoned lot shall comply with all of the following size requirements:

1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

2. Detached accessory buildings: the maximum total combined gross floor area of all detached accessory buildings including, but not limited to, detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be one thousand six hundred (1,600) square feet.

3. Attached accessory buildings: the maximum total square footage allowed for all attached garages, attached carports or any attached accessory building may not exceed a total of one thousand six hundred (1,600) square feet or thirty-five percent (35%) of the total gross area of the principal building, whichever is greater.

4. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to, detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building.

j. Accessory structures located on a R-1A, R-1B, R-1C or R-2 zoned lot shall comply with the following size requirements:

1. Accessory structures including, but not limited to parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

k. Accessory buildings located on a R-3 zoned lot shall comply with all of the following size requirements:

1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

2. The maximum total combined gross floor area of all attached garages, attached carports, and/or all detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed fifteen percent (15%) of the lot area.

3. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building(s).
l. Accessory structures located on a R-3 zoned lot shall comply with the following size requirements:

1. Accessory structures including but not limited to dumpster enclosures, parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

(2) Non-residential districts:

a. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum five (5) foot setback from the side and rear lot lines unless abutting a residential district. When abutting a residential district, the setback for side and rear lot lines shall be a minimum of the accessory building or structure height.

b. Accessory buildings located on an AG, P-I, NC, C-O, C-1, C-2, CBD, P, M-1, or M-2 zoned lot shall comply with all of the following size requirements:

1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

2. The maximum total combined gross floor area of all attached garages, attached carports, and/or all detached accessory buildings including but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed twenty-five percent (25%) of the lot area.

3. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building(s).

c. Accessory structures located on a AG, P-I, NC, C-O, C-1, C-2, CBD, P, M-1, or M-2 zoned lot shall comply with the following size requirements:

1. Accessory structures including, but not limited to loading docks, refuse containers, dumpster enclosures, parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts, and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

d. When not attached to the principal building, accessory buildings and/or structures in non-residential districts shall not exceed twenty-five (25) feet in height.

e. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall be prohibited in the front yard, unless otherwise stated in this chapter.

(Ord 121-05, §1, 10-25-05, Ord 89-08, §1, 5-27-08; Ord 117-08, §1, 6-24-08; Ord 122-08, §1, 8-12-08; Ord 143-08, §1, 10-7-08; Ord 84-09, §1, 6-23-09; Ord 46-12, §1, 6-6-12)

Sec. 23-44. Fences and walls.

(a) Fences and walls. Fences and walls are subject to the provisions of this section.

(1) Height

The height of fences and walls shall be measured at grade, except as follows. Height may be measured two (2) inches above grade to allow for proper drainage and prevent rot of materials, when deemed appropriate by the Inspections Supervisor or designee. Berms may not be used to increase grade directly under a fence,
unless otherwise stated in this chapter. Posts and post caps may project a maximum of four (4) inches above required fence height.

a. **Boundary fence.** A boundary fence or wall shall not be more than six (6) feet in height in residential districts and not more than twelve (12) feet in commercial and industrial districts, except that hedges may be permitted to grow to their natural height. No boundary fence or wall, including a hedge or row planting, shall be permitted in excess of three (3) feet in height between the front yard setback line and the abutting lot lines, unless otherwise stated in this chapter.

b. **Sound barrier fence or wall on an arterial/collector roadway.** A sound barrier fence or wall may be erected on a residential property, along the access-restricted lot line abutting an arterial or collector street. It shall not exceed eight (8) feet in height for double frontage lots and not exceed six (6) feet for corner lots, except in the vision corner.

c. **Sound barrier fence or wall on a freeway.** A sound barrier fence, wall or combination of fence and berm or wall and berm may be erected along the yard abutting a freeway. It shall not be more than twenty (20) feet in height, as measured from the grade of the adjacent freeway. Plans from a state certified engineer/architect that assure structural integrity may be required for fences higher than eight (8) feet.

2) **Materials.**

a. Barbed wire fences, electrical fences, and single, double and triple strand fences are prohibited except in the AG agricultural, M-1 and M-2 industrial districts.

b. For all zoning districts other than AG, fence material must be either naturally resistant or treated wood board, vinyl, galvanized and/or vinyl coated chain link material, wrought iron, brick, natural stone, masonry, or other material as approved by the Community and Economic Development Director. Chain link fence slats are subject to provisions of this ordinance.

c. Fences and walls located in the front yard must be made of materials such as wood, brick, vinyl, wrought iron, or stone. Galvanized chain link material is prohibited in the front yard.

d. The finished side of the fence shall be erected to face the adjoining property. The side with protruding studs or posts shall face the building of the lot responsible for the erection of the fence.

e. Fences used for screening purposes for non-residential uses shall be subject to Crime Prevention Through Environmental Design (CPTED) standards. CPTED standards are reviewed and are available through the Appleton Police Department.

3) **Exceptions.**

Protective security and boundary fences on industrial sites, publicly owned lands or semi-private lands such as places of worship, educational institutions, utility substations, etc. are excluded from the provisions of this section, except that where such fences incorporate the use of barbed wire, such barbed wire shall not be less than seven (7) feet above the ground level, and except such fences shall be a minimum of two-thirds (2/3) open to vision equally distributed throughout the fence length, and maintain allowable height when located within the defined vision corner.

4) **Setback.** No fence shall extend closer than five (5) feet from the right-of-way line of an improved public alley.

5) **Vision corner.** Fences and walls shall comply with vision corner requirements of §23-50(g), Vision corner.

6) **Maintenance.** Both the fence and the property surrounding both sides of the fence shall be properly maintained at all times.
Sec. 23-45. Home occupations.

(a) **Purpose.** The purpose of this section is to provide regulations for limited non-residential uses that are conducted by an occupant of a dwelling which are compatible with the surrounding residential properties.

(b) **Permit required.** A home occupation permit is required for all home occupations conducted in an attached or detached garage pursuant to the procedures set forth in this section prior to the establishment of a home occupation.

(c) **Permit application.** Applications for home occupations conducted in an attached or a detached garage shall be filed with the Community and Economic Development Department on the forms available in the Community and Economic Development Department.

1. Each application shall be accompanied by a scaled site plan drawing showing the property lines and dimensions, location of all existing buildings/structures, location and number of on-site parking spaces for customers, employee and residence vehicles and the location and size of the home occupation.

2. Other information and plans as may be required by the Community and Economic Development Director or designee to determine whether a home occupation permit application should be approved, conditionally approved, or denied. The Community and Economic Development Director or designee may also authorize omission of any information or plans if he or she finds they are not necessary.

(d) **Action upon acceptance of a permit application.**

1. After acceptance of a complete application, the Community and Economic Development Director or designee shall forward each application for a home occupation permit to the Inspections Division, Health Department, Fire Department, and Police Department. An authorized representative from each department shall review each application for a home occupation, insofar as the application relates to their respective department’s duties based upon the City of Appleton Municipal Code, to determine whether the application for a home occupation complies with the ordinances and laws applicable thereto. These representatives shall furnish the Community and Economic Development Director or designee, in writing, their recommendation as to whether an application for a home occupation should be approved, approved conditionally, or denied within five (5) business days after the application has been accepted by the Community and Economic Development Director or designee.

2. Within ten (10) business days after acceptance of a complete application and after notification to the City departments listed above, the Community and Economic Development Director or designee shall approve, approve with conditions, deny such home occupation permit.

3. If there is recommendation for denial, the Community and Economic Development Director or designee shall reject such home occupation permit in writing to the applicant stating the reasons for denial.

(e) **Permit not transferable.** The home occupation permit shall not be transferred to any individual, firm or another address, nor shall the permit authorize any person, other than the person named therein, to commence or carry on the home occupation for which the permit was issued.

(f) **Violations; penalty.** Failure to comply with the approved or conditionally approved home occupation permit or the provisions of this chapter, or failure to obtain a home occupation permit shall be a violation of this section. Administration and enforcement shall be as prescribed in §23-69 of this chapter.

(g) **General regulations.** All home occupations shall comply with the following standards:

1. **Location.** A home occupation shall be clearly incidental and subordinate to the use of the premises as a dwelling, and shall be conducted entirely within the residential dwelling unit or entirely within either the attached or detached garage, but not both by a member of the family residing on the premises.
(2) **Square footage of the home occupation.**

a. *When located within the dwelling.* The total area used for the home occupation within the dwelling shall not be more than three hundred (300) square feet or thirty percent (30%) of the habitable dwelling area, whichever is less.

b. *When located within a detached or attached garage.* The total area used for the home occupation shall take up no more than three hundred (300) square feet or thirty percent (30%) of the gross floor area of the attached or detached garage, whichever is less.

(3) **No change to the character of the dwelling unit or garage.** No internal or external alterations or construction of the premises are involved, including the creation of a separate or exclusive business entrance, and there shall be no other exterior indication that a home occupation exists, except as provided in this section.

(4) **Nuisances.** No equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-rays or electrical disturbance to radio or television transmission in the area that would exceed what is normally associated with a residential use.

(5) **Vehicle restrictions.** Only one (1) vehicle shall be permitted to be located at the residence in conjunction with the home occupation. The home occupation vehicle must be of a type ordinarily used for conventional passenger transportation (i.e., passenger automobile or vans and pickup trucks not exceeding a payload capacity of one (1) ton).

(6) **Outdoor display or storage.** No outdoor display or storage of materials, goods, supplies or equipment shall be allowed at the residence in conjunction with the home occupation.

(7) **Sign restrictions.** A home occupation use shall be limited to one (1) non-illuminated wall sign that does not exceed two (2) square feet in area.

(8) **On-premise sales/rental.** Sale and/or rental of products is permitted on an appointment basis only.

(9) **Employee restrictions.** Only one (1) person may be employed on the site in connection with the home occupation who is not an actual resident of the dwelling unit.

(10) **Client visitation restrictions.** There shall be no business visits and/or nonresident worker arrivals or departures allowed before 8:00 a.m. or after 8:00 p.m. Clients in conjunction with the home occupation will be limited to no more than ten (10) per day. No more than two (2) clients may visit at one (1) time.

(11) **Off-Street parking requirements.**

a. Off-street parking spaces shall be available for clients and employees.

b. Off-street parking spaces for the dwelling shall be maintained as required by this chapter.

(12) **Deliveries.** Deliveries to the home occupation shall be made by passenger vehicles, mail carriers, or step vans (UPS, Federal Express).

(13) **Garage operation restrictions.** All doors and windows of the attached or detached garage shall be kept closed at all times during the hours of operation of the home occupation, except when entering and exiting.

(h) **Permitted home occupations.** A home occupation may include or include similar uses such as the following, provided that the provisions of this chapter are met: professional office uses such as accountant, appraiser, architect, attorney, broker or agent (real estate, insurance, etc.) counselor, market research service, engineer, interior decorator, home crafts such as tailoring, sewing, dressmaking, quilting, making of jewelry or arts and crafts, artists and sculpting, blade sharpening of household hand and power tools such as mower blades, saw blades, drill bits, axes, chain saws, scissors, kitchen knives, or hedge clippers, office for contractor, handyperson, landscape contractor, tutoring of individuals, music instruction, direct sale product distribution (Avon, Tupperware, etc.), internet consulting and/or sales or writers.
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(i) **Prohibited home occupations.** A home occupation shall not include or include similar uses such as the following: barbershops, beauty shops, service, repair, or painting of automobiles, trailers, recreational vehicles, boats, and snowmobiles, paint shops, welding, antique shops, landscaping businesses, medical clinics, retail food or wholesale food establishments requiring a state license, small engine repair, appliance repair or resale, palm reading, nail salon, pet grooming, kennels, hair wrapping, acupuncture, tattoo and body piercing, fitness center, aerobic exercise studios, restaurants or massage therapy. This list is illustrative, not exhaustive of all prohibited uses.

(Ord 61-94, §5, 5-18-94; Ord 121-05, §1, 10-25-05; Ord 29-11, §1, 1-25-11)

Sec. 23-46. Outdoor storage and display in non-residential districts.

The following regulations shall apply to outdoor storage or displays in non-residential districts:

(a) The outdoor display of goods including items such as firewood and mulch shall be controlled by the following regulations:

   (1) The outdoor display of merchandise shall not interfere with off-street parking spaces or the safe and unobstructed use of vehicular, emergency, or pedestrian access ways or walkways.

   (2) The outdoor display of merchandise outside of the adjacent building shall not be located in any required setback on the lot.

   (3) Outdoor display of merchandise shall not be displayed at a height greater than seven (7) feet from the surface on which the merchandise is being displayed, except when the outdoor display of merchandise is displayed on a shelving or storage rack system.

   (4) All permitted outdoor display shall be maintained in a neat and orderly fashion.

(b) The outdoor storage of business property, goods, wares or merchandise that is not located in a specific area for customer viewing or immediate sale shall be controlled by the following regulations:

   (1) The outdoor storage areas shall not interfere with off-street parking spaces or the safe and unobstructed use of vehicular, emergency, or pedestrian access ways or walkways.

   (2) Outdoor storage areas shall not be located in any established front yard, required side or rear setback area on the lot. However, in the case of a double frontage lot, outdoor storage may be located in the established front yard opposite the front yard from which the principal structure is addressed.

   (3) Outdoor storage areas shall be required to be screened with an alternating board on board fence, chain link fence with tubular PDS slats or a wall. Such PDS slats or wall shall complement the exterior color of the principal building.

   (4) All permitted outdoor storage shall be maintained in a neat and orderly fashion.

Sec. 23-47. Refuse container and dumpster enclosure standards.

The following standards shall apply to refuse container and dumpster enclosures:

(a) Refuse containers and dumpster enclosures of appropriate size are required for all non-residential and multifamily properties. These are required to be located outside of the street right-of-way and front yard. Refuse containers and dumpster enclosures shall be designed for front end loading trucks.

(b) Refuse containers and dumpster enclosures shall be located at the rear or side of the building, screened from public view, and easily accessible for refuse pickup. A dumpster must have at least one (1) foot of separation from another dumpster. This distance must be measured from the outside of the pocket where the forks are inserted for dumpster pickup.

(c) Enclosures shall be designed to the minimum dimensions as follows:
(1) Option 1 – This preferred option does not include a gate and can only be used when the opening is not visible from the public right-of-way or from adjoining residential properties.

(2) Option 2 – This option includes a gate with a one (1) foot vertical clearance, both gates to have the ability to be latched in the open position, and both gates to have the ability to be opened beyond ninety (90) degrees to at least a 145-degree angle.

(3) The following is required for both options:

   a. No overhead obstructions (wires, trees, roof overhangs, etc.) are permitted;
   
   b. The height must be sufficient to screen the dumpster;
   
   c. Materials used for screening the dumpster shall be alternating board on board fence, chain link fence with PDS slats or staggered evergreens. Such PDS slats shall complement the exterior color of the principal building;
   
   d. The depth of the enclosure shall be two (2) feet greater than the size of the dumpster;
   
   e. The concrete pad for the dumpster must be the same level as the lot and able to support the weight of a City front load truck; and
   
   f. A minimum fifty (50) foot direct front access on the approach to the dumpster is needed.

Bed and breakfast establishments shall only be located within and accessory to an owner occupied single-family detached home.

(a) Bed and breakfast establishments shall comply with all local, county and state fire and health regulations.

(b) The bed and breakfast establishment shall be owner occupied at the time of rental.

(c) The operation of a bed and breakfast establishment shall not be considered or classified as a home occupation.

(d) A bed and breakfast establishment with four (4) or less guestrooms for rent is permitted.

(e) A bed and breakfast establishment with five (5) to a maximum of eight (8) guestrooms can be permitted with a Special Use Permit per §23-66.

(f) No ancillary commercial use shall be operated in connection with an approved bed and breakfast establishment. (Ord 110-07, §1, 6-26-07)

Sec. 23-49. Drive through facility.

(a) Location. Drive through facilities shall not be located in the front of the principal building.

(b) Site Design.

(1) A drive through facility shall not be provided a separate curb cut except as may be recommended as part of a site plan review recommendation.
(2) Maneuvering space for drive through facilities shall be provided to the side and rear of the principal building except as may be recommended as part of a site plan review recommendation.

(3) The design of maneuvering and stacking aisles for the drive through shall not interfere with circulation or visibility for traffic either on or off site.

(4) A minimum of five (5) stacking spaces shall be provided for each drive through window.

(5) Where abutting residential districts, drive through facilities shall be fully screened from view.

(6) A drive through facility shall not conflict with pedestrian circulation on site.

*Drive Through Graphic*

*Remainder of page intentionally left blank*
Sec. 23-50. Dimensional exceptions and modifications.

(a) **Purpose.** Height, area exceptions and modifications set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(b) **General area exceptions and modifications.** The area and setback requirements heretofore established shall be adjusted in the following cases:

1. Every part of a required yard shall be open to the sky, unobstructed by a building, except for accessory structures in a side or rear yard, and except for ordinary projection of sills, belt courses, cornices and ornamental features, roof overhangs, eaves, bay windows, chimneys, and gutters not to exceed twenty-four (24) inches.

2. Open or lattice enclosed fire escapes, required by law, and handicap access ramps may project into a required setback. The ordinary projection of chimneys and pilasters shall be permitted by the Inspections Supervisor, when placed so as not to obstruct light and ventilation.

3. Terraces, uncovered porches, uncovered stairs, decks and ornamental features no greater than forty (40) square feet may project into a required yard, provided these projections do not extend more than three (3) feet above the floor level of the ground (first) story and are at least four (4) feet from the adjacent side lot line.

4. Where a single building on a lot or tract is converted to condominium ownership, area and setback standards will apply to the original conforming lot or tract and not to individual ownership.

5. Where an earthen berm is constructed separately or against a structure, the height of the berm relative to surrounding elevations cannot exceed three (3) feet at any point on the property unless such berm is first approved as part of a site plan submitted for §23-570, Site plan review and approval.

(c) **Height.** The height required heretofore shall be adjusted in the following cases:

1. Educational institutions, public facilities, places of worship and other similar type institutions may be erected to a height not exceeding eighty-five (85) feet in any district in which they are permitted, provided:
   a. In the P-I District, the regulations of §23-100(h)(4) – (6) shall be followed.
   b. In all other districts, front and rear yards shall be increased in depth, and side yards shall be increased in width one (1) foot for each foot of height that the building exceeds the height regulations of the district in which it is located.

2. The height regulations prescribed heretofore shall not apply to grain elevators, place of worship spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smoke stacks, conveyors, radio towers and flag poles.

(d) **Front yards.** The front yards heretofore established, with the exception of front yards in corner lots, shall be adjusted in the following cases:

1. If a lot is within one hundred (100) feet of existing buildings on both sides of the lot, the minimum front yard setback shall be a straight line drawn from the two (2) closest front corners of the adjacent building on each side; or

2. If a lot is within one hundred (100) feet of an existing building on one (1) side only, the setback shall be the same as the adjacent building; or

3. If a lot is more than one hundred (100) feet from an existing building on either side, then no reduction may be applied to the front yard setback.
Example: Lot within 100 feet of two buildings.

Example: Lot within 100 feet of one building.

(4) Where a lot is a double frontage lot, any detached accessory structure may be permitted in the yard opposite the front yard from which the principal structure is addressed. Furthermore, the accessory structure shall meet the front yard and side yard setback requirement of the principal structure.
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BUILDABLE AREA FOR ACCESSORY STRUCTURES ON A TYPICAL CORNER LOT - RESIDENTIAL DISTRICTS

SIDE SETBACK FOR THE FIRST LOT OF LOT DEPTH X
6' (R-A)
6' (R-2)
5' (R-2)

REAR YARD

SIDE YARD

BUILDABLE AREA

FRONT YARD

FRONT STREET

SIDEWALK

SURVEY MARKER

BUILDABLE AREA SHALL NOT EXTEND BEYOND PRINCIPAL BUILDING

(e) **Side yards.** The side yards heretofore established, may be adjusted in the following cases:

(1) For the purpose of the side yard regulations, a two- (2-) family dwelling shall be considered as one (1) building occupying one (1) lot.

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(2) Side yard setbacks are not required on the connected sides of a unified building development such as a multi-tenant building.

(f) **Rear yards, corner lots of record.** If a corner lot of record is less than one hundred (100) feet in depth, the required rear yard setback may be reduced, not to exceed fifty percent (50%) of the total minimum required rear yard setback.

(g) **Vision corner.** Vegetation or structures on private property (as per requirements of City Traffic Code, Chapter 19):

(1) **Street corner.** No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the street at its intersection with another street or public thoroughfare. There shall be a vision corner on all corner lots located in zoning districts that require a minimum twenty (20) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty-five (25) feet from the intersection of the right-of-way lines. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the adjacent property line elevation to ten (10) feet above the adjacent property line elevation.

(2) **Private Driveway.** No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the driveway, street, or public thoroughfare. There shall be vision triangles on all driveways located in zoning districts that require a minimum ten (10) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting the point ten (10) feet from the intersection of the street-right-of-way and private driveway. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the adjacent property line elevation to ten (10) feet above the adjacent property line elevation.

(3) The provisions above also apply to those corner lots located in zoning districts that require a ten (10) foot setback from street property lines, except in those cases the vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty (20) feet from the intersection of the street right-of-way.

(Ord 29-20, §1, 3-25-20)
Sec. 23-51. Zoning with design requirements.

(a) No single-family or two- (2-) family dwelling shall be erected or installed in any zoning district within the City of Appleton unless the structure is set on a full basement or other permanent enclosed foundation which meets the standards set forth in subchapters III, IV and V of Ch. ILHR 21, Wis. Adm. Code and all site construction is in compliance with Chapters ILHR 21-25, Wis. Adm. Code, the Uniform Dwelling Code.

(b) In addition to (a) above, residential structures must conform to the following:

1. A one (1) story structure shall have a minimum living area of at least nine hundred (900) square feet and a two (2) story structure shall have a minimum first floor living area of at least seven hundred (700) square feet;

2. Minimum width (i.e., the short side) of every dwelling shall be at least twenty-five (25) feet. Attached garages, carports and open decks shall not be included in the measurement of the width of the dwelling;

3. The structure shall have a minimum of 4/12 pitched roof on a minimum of seventy-five percent (75%) of the structure;

4. All dwellings shall be placed on an enclosed permanent foundation that does not extend more than twelve (12) inches of exposed concrete foundation above the exterior finished grade of the lot. An exception is when the grade of the lot slopes, in which case only that portion of the foundation which is on the highest point of the lot must meet the requirements of this paragraph.

(c) The Board of Appeals may not grant any variance from the requirements of (a). The Board of Appeals may grant a variance from the requirements of (b) only if the Board of Appeals specifically finds that the architectural style proposed provides compensating design features and that the proposed dwelling will be compatible and harmonious with other dwellings in the vicinity.

(d) Single-family and two- (2-) family dwellings that do not meet the above requirements as of November 19, 1995, are considered to be in conformity.

(Ord 118-95, §1, 11-15-95)

Sec. 23-52. Community living arrangements (CLA) and other living arrangements.

(a) **Purpose.** This section is intended to ensure that:

1. All community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance provide a living environment for their residents which is as homelike as possible and is the least restrictive of each resident's freedom as is compatible with the resident's need for care and services;

2. The care and services a resident needs are provided to the resident;

3. Care and services are provided in such a manner that the resident is encouraged to move toward functional independence in daily living or to continue functioning independently to the extent possible; and

4. Community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance are dispersed throughout the community to assure the most appropriate environment for each facility and the neighborhood in which the facility exists.

(b) **General requirements.** The following requirements shall be reviewed by the Community and Economic Development Director and the Inspections Supervisor and shall regulate community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance within the City limits:

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(1) Prior to the issuance of a Certificate of Occupancy, the operator of the community living arrangement, adult family home (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance shall provide evidence to the Inspections Supervisor that a valid license has been or will be issued from the State of Wisconsin and/or another appropriate governmental unit.

(2) For the purpose of this section, the location of a community living arrangement, an adult family home (B) operated by corporations, child welfare agencies, churches, associations or public agencies or an adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance shall be subject to the following requirements:

a. The total capacity of all community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies within any aldermanic district may not exceed one percent (1%) of the total population of that aldermanic district. Exception to this requirement may be granted at the discretion of the City by a special use permit pursuant to §23-66 of this ordinance.

b. The total capacity of all community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies within the City may not exceed one percent (1%) of the total City population. Exception to this requirement may be granted at the discretion of the City by a special use permit pursuant to §23-66 of this ordinance.

(3) All community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies must be reviewed by the Division of Inspections and the Fire Department and receive the necessary permits from those departments.

(4) The exterior of the community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies shall conform to the character of the residential dwellings in the neighborhood in which it is located. Furthermore, all new structures proposed shall be compatible with the surrounding neighborhood.

(Ord 121-05, §1, 10-25-05; Ord 82-07, §1, 5-8-07)

Sec. 23-53. Outdoor lighting.

(a) Purpose. All areas containing outdoor lighting, including, but not limited to, floodlighting, security lighting, event lighting or the lighting of off-street parking and loading areas shall comply with the requirements of this section.

Furthermore, it is the intent of the regulations of this section to establish lighting levels for various permitted uses that promote visual surveillance, reduce the potential for criminal activity and prevent the unnecessary glare of light on adjacent properties.

(b) Lighting definitions. The following terms are defined for this section:

(1) Foot-candle. A unit of measure for illumination. A unit of illumination on a surface that is one (1) foot from a uniform point source of light of one (1) candle and equal to one (1) lumen per square foot.

(2) Full cut-off fixture. A light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a ninety degree (90º) horizontal plane from the base of the fixture.

(3) Horizontal foot-candle or luminance. The measurement of brightness from a light source, usually measured in foot-candles or lumens, which is taken through a light meter’s sensor at a horizontal position.
(4) **Light trespass.** Light from an artificial light source that is intruding into an area where it is not wanted or does not belong.

(5) **Lumens.** A unit of illumination, being the amount of illumination of a unit area of spherical surface, due to a light of unit intensity placed at the center of the sphere.

(6) **Uplighting.** Any light source that distributes illumination above a ninety-degree (90°) horizontal plane.

(7) **Security lighting.** Any light source used to illuminate a building, structure or property during evening hours that seeks to deter criminal activity.

(c) **Lighting standards, configuration and timing.**

(1) All exterior lighting shall be of full cutoff design and directed downward and away from adjoining property, with luminaries shielded to prevent unnecessary glare as identified in the graphic on the next page.

*Example of cutoff light fixtures*

![Example of cutoff light fixtures](image)

(2) Trees and shrubs shall not interfere with the distribution of exterior lighting necessary for security purposes as required by this section.

(3) Security lighting above building entrances, parking lots, off-street loading areas and service entrances shall be metal halide, LED, or another source, unless permitted otherwise during plan review, and incorporated in exterior areas going to and from the building(s) or use(s) within the site. (Ord 70-12, §1, 7-24-12)

(4) All exterior fixtures, when used for security purposes, except for parking lot lighting, shall be illuminated from dusk until dawn, unless otherwise specifically designated on the site plan and as approved through the site plan process. All other exterior lighting that is not necessary for security purposes shall be turned off one (1) hour after the close of business.

(5) Any exterior lighting device designed for security lighting shall be protected by weather and vandal-resistant covering, a managed light source for controlling the times of illumination and fully shielded and directed down to minimize glare and intrusiveness on adjacent properties or rights-of-way.

(6) Lighting in multi-level parking ramps shall be evaluated on a case-by-case basis to maximize safety and to minimize unnecessary glare to adjacent or nearby residential areas.
(d) **Lighting plan.** A lighting plan is required by this code. Such plan shall become an integral part of any site plan review application. No building permit shall be issued without first obtaining approval of a required lighting plan.

Details of exterior lighting shall be provided on a site plan as identified in §23-570, Site plan review and approval. Photometric calculations shall be detailed on an exterior lighting plan unless waived by the Community and Economic Development Director. Photometric calculations shall be based on the “mean” light output per the manufacturer’s values of the specified lamp and luminaire photometry data formatted on Illumination Engineering Society (I.E.S.) file complied by an approved testing laboratory. The details provided for exterior lighting shall include point-to-point photometric calculations at intervals of not more than ten (10) feet, at ground level, and may also be required at six (6) feet above ground level, depending on the applicable risk factors.

**Example: Photometric Calculation**

(e) **Minimum illumination guidelines for security purposes.** All minimum illumination guidelines for security lighting listed in this section shall be maintained from ground level to a height of six (6) feet. The minimum to maximum uniformity ratio may range up to 6:1 in acceptable layouts. In some circumstances, customer convenience, closed-circuit surveillance, and commercial entertainment uses may require a higher level of lighting.

(f) **Outdoor lighting intensity standards.** When outdoor lighting is proposed or required, the following standards in the table on the following page shall apply and the “activities” as described in the table shall be assigned and evaluated by the Appleton Police Department and Community and Economic Development Department based on the type of use, the hours of operation and the area in which the use is located.

**Remainder of page intentionally left blank**
### Outdoor Lighting Intensity and Uniformity Standards.

<table>
<thead>
<tr>
<th>Light Use</th>
<th>Minimum Horizontal Foot-candles</th>
<th>Maximum Horizontal Foot-candles</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking lot</td>
<td>0.5</td>
<td>5</td>
<td>(1) Areas used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking lot lighting. (2) Parking lot lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.</td>
</tr>
<tr>
<td>Outdoor display and sales</td>
<td>-</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Walkways, sidewalks, bike paths</td>
<td>-</td>
<td>5.0</td>
<td>(1) Lighting fixtures shall be designed to direct light downward, and the initial output of light sources shall not exceed one thousand (1,000) lumens. (2) Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.</td>
</tr>
<tr>
<td>Parks and playgrounds</td>
<td>-</td>
<td>0.5</td>
<td>Lighting fixtures shall be designed to direct light downward, and the initial output of light sources shall not exceed one thousand (1,000) lumens.</td>
</tr>
<tr>
<td>Canopies and drive through facilities</td>
<td>5.0</td>
<td>20.0</td>
<td>(1) Light fixtures mounted on or under canopy ceilings shall be full cutoff, unless indirect lighting is be used whereby light is directed upward and then reflected down from the ceiling of the structure. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the ceiling of the structure. (2) Lights shall not be mounted on the top or sides of a canopy and the sides of a canopy shall not be illuminated. (3) Lighting for drive-through facilities must be fully shielded. (4) Canopy and bay lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.</td>
</tr>
<tr>
<td>Outdoor activity facility</td>
<td>All outdoor entertainment or recreational/sports facility lighting will be reviewed for compliance with minimum site lighting criteria and light trespass criteria and with regard to the intent of these exterior lighting standards to minimize the impact of light trespass and glare on all surrounding properties and public rights-of-way.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>High risk activity (e.g., bank deposit night drop or ATM)</td>
<td>4.0</td>
<td>5.0</td>
<td>Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.</td>
</tr>
<tr>
<td>Medium risk activity (e.g., convenience store open 24 hours)</td>
<td>2.0</td>
<td>4.0</td>
<td>Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.</td>
</tr>
<tr>
<td>Low risk activity (e.g., place of worship, office)</td>
<td>0.50</td>
<td>2.0</td>
<td>Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.</td>
</tr>
</tbody>
</table>

(Ord 71-12, §1, 7-24-12)

(g) **Light trespass.** All areas containing outdoor lighting (except public street lighting) shall limit light trespass onto adjacent property, when measured at any point along a property line, to the requirements set forth below. Compliance shall be achieved by utilizing fixture shielding, directional control designed into fixtures, fixture location, height, or aim or a combination of these or other factors.

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(h) **Exterior illumination of buildings and other vertical structures.** When buildings or other structures are illuminated, the design for the illumination shall be in accordance with the following:

1. The illumination of buildings shall be limited to security lighting or highlighting unique architectural features.

2. Lighting fixtures shall be located and/or aimed such that light is directed only onto the building surface. All fixtures used to illuminate buildings shall be fully shielded.

3. For statues, monuments, fountains, or other objects for which it may not be possible to illuminate with downward lighting, upward lighting may be used only in the form of spotlights that confine the illumination to the object of interest.

4. If upward lighting is used to illuminate flags, only spotlights shall be used; floodlights directed above the horizontal shall not be used to illuminate a flag.

(i) **Neon lighting.** Light sources consisting of glass tubes filled with neon, argon, krypton, or other similar gas (hereafter referred to as “neon lighting”) are excluded from shielding and line-of-sight requirements. However such lighting shall be included in the light trespass requirements of §23-53(f). Furthermore, neon lighting shall not be considered as security lighting.

(j) **Other outdoor lighting.**

1. Outdoor lighting not otherwise specified in this code emitting more than one thousand two hundred (1,200) lumens (except motion detector activated lighting) shall be full cutoff and fully shielded. Bulbs in outdoor light fixtures emitting from six hundred (600) to one thousand two hundred (1,200) lumens may be installed in fixtures that are not full cutoff and may be visible from the property line provided, however, such bulbs shall be frosted glass or covered by frosted glass or other similarly translucent material.

2. A spotlight or floodlight of less than one thousand eight hundred (1,800) lumens need not be full cutoff or fully shielded if its center beam is aimed at a point not beyond any property lines and no less than forty-five degrees (45°) below horizontal, is used for security lighting purposes only, and is motion detector activated and cycles off within five (5) minutes after the cessation of motion within its field of view.

3. Tower or antenna lighting shall not be permitted unless required by the Federal Aviation Administration (FAA).

(k) **Enforcement.** Failure to adhere to the requirements of this section or an approved lighting plan shall be deemed a violation of this code.

(l) **Exceptions.**

1. The temporary use of low wattage or low voltage lighting for approved festivals, celebrations, and the observance of holidays are exempt from this section except where they create a hazard or nuisance from glare.

2. Consideration to light trespass requirements shall be demonstrated prior to commencing the use of the temporary lighting.

3. Emergency lighting and traffic control lighting shall be exempt from the requirements of this section.

(m) **Lights not conforming to this chapter.**

1. **Authority to continue.** Any lawful lighting fixtures located within the City at the effective date of this section or which shall come to be located in City as a result of annexation after the effective date of this code, which
does not conform to the provisions of this section, may continue provided the lighting remains in conformance with the provisions of this subsection.

(2) **Ordinary maintenance and repair.** Nothing in this subsection shall relieve the owner or beneficial user of legal nonconforming lighting, or the owner of the property on which the legal nonconforming lighting is located, from the provisions of this section regarding safety, maintenance and repair. Normal maintenance, including replacing light bulbs, cleaning, or routine repair of legal nonconforming light fixtures, shall not be deemed to be a condition that triggers a loss of lawful status described below, unless such maintenance increases the nonconforming aspects of the lighting.

(3) **Loss of lawful status.**

   a. Legal nonconforming status shall terminate under the following conditions:

   1. If a light fixture is no longer used for a period of twelve (12) months or longer it shall be deemed abandoned and shall not thereafter be reestablished; or

   2. If a lighting fixture is structurally altered such that its nonconforming aspects increase; or

   3. If a lighting fixture is relocated, replaced, or moved in any way; or the lighting fixture is damaged and the cost of repair exceeds fifty percent (50%) of its replacement value.

   b. Upon the event of any of the aforementioned, the lighting fixture(s) shall be immediately brought into compliance with this section, or the lighting fixture(s) shall be removed.

(4) **Removal pursuant to public order.** Lighting found by a governmental agency to create public hazard can be ordered removed or altered at any time.

Sec. 23-54. **Temporary uses and structures.**

   (a) **Purpose.** This section is intended to provide for the regulation and control of temporary uses and temporary structures that occur on private property on an intermittent basis or for a specific period of time, not intended to become a permanent use or structure. This administrative procedure will assure that standards are addressed and that the temporary use or temporary structure will not have a negative impact on adjacent properties and neighborhoods.

   (b) **Permit required.** All temporary uses and structures shall obtain a temporary use permit pursuant to the procedures set forth in this section prior to the establishment of a temporary use or structure, unless otherwise stated in this section.

   (c) **Permit applications and fees.** Application for a temporary use or structure shall be filed with the Community and Economic Development Director on forms available in the Community and Economic Development Department. Each application shall be accompanied by:

   1. A site plan drawing, drawn to scale, showing the property lines and dimensions, location of all existing and proposed structures/buildings, parking lot landscaping areas, on-street/off-street parking spaces and drive aisles, driveways, location, size and setback dimensions to property lines of the proposed temporary use and/or structure.

   2. Other information and plans as may be required by the Community and Economic Development Director to determine whether a temporary use/structure permit application should be approved, conditionally approved, or denied. The Community and Economic Development Director may also authorize omission of any information or plans if he or she finds they are not necessary.

   3. Permit fee. The fee for a temporary use/structure permit shall be established by the Common Council and is on file in the Office of the City Clerk.

   (d) **Action upon acceptance of a permit application.**

   1. After acceptance of a complete application, the Community and Economic Development Director shall
forward each application for a temporary use or temporary structure to the City Clerk’s Office, Inspections Division, Fire Department, Health Department, Police Department, and Public Works Department-Engineering Division. An authorized representative from each department shall review each application for a temporary use or temporary structure, insofar as the application relates to their respective department’s duties based upon the City of Appleton Municipal Code, to determine whether the application for a temporary use or temporary structure complies with the ordinances and laws applicable thereto. These representatives shall furnish the Community and Economic Development Director, in writing, their recommendation as to whether an application for a temporary use or temporary structure should be approved, approved conditionally, or denied within five (5) business days after the application has been accepted by the Community and Economic Development Director.

(2) Within ten (10) business days after acceptance of a complete application and after notification to the City departments listed above, the Community and Economic Development Director shall approve, approve with conditions, deny such temporary use, or temporary structure permit.

(3) If there is recommendation for denial, the Community and Economic Development Director shall reject such temporary use or temporary structure permit in writing to the applicant stating the reasons for denial.

(e) **Time limits on permit applications.** All temporary uses and structures shall be confined to the dates specified by the Community and Economic Development Director, on the temporary use permit.

(f) **Violations; penalty.** Failure to comply with the approved or conditionally approved temporary use permit or the provisions of this chapter, or failure to obtain a temporary use permit shall be a violation of this section. Administration and enforcement shall be as prescribed in §23-69 of this chapter.

(g) **General standards.** All temporary uses and structures shall meet the following requirements:

(1) **Lot and setback requirements.**

   a. A temporary use and/or temporary structure shall not occur or be placed on a vacant lot, unless otherwise stated in this section.

   b. A temporary use and/or temporary structure shall comply with the minimum front, rear and side yard setback requirements for the principal structure (development standards) of the zoning district in which the temporary use or temporary structure is located, unless otherwise stated in this section.

   c. A temporary use and/or temporary structure shall not be placed in an area intended for emergency service vehicles.

   d. A temporary use and/or temporary structure that is located in a parking lot shall not occupy more than forty percent (40%) of the available parking spaces for the principal use(s).

   e. A temporary use and/or temporary structure shall not impede the vehicular traffic circulation or the movement of emergency vehicles on the lot.

   f. A temporary use and/or temporary structure shall not be placed in the required interior or perimeter parking lot landscaping areas.

(2) **Outdoor lighting.** The minimum regulations of §23-53, Outdoor lighting shall be complied with.

(3) **Parking spaces.** All required parking spaces shall be provided on the same lot with the temporary use, unless otherwise stated in this section. The number of parking spaces required for the temporary use is based on parking requirements for the most similar use type listed under §23-172 of this chapter, unless otherwise stated in this section. However, due to the primary pedestrian orientation of the Central Business District (CBD), the off-street parking requirements are not required for temporary uses located in the CBD.

(4) **Food sales.** Food sales shall be licensed and operated under valid City of Appleton Health Department permits pursuant to the Municipal Code and state laws.
(5) **Sanitary facilities.** Sanitary facilities, either portable or permanent, shall be made available to all employees, attendants and participants of the temporary use or temporary structure during its operation hours, as determined and required by the Inspections Supervisor.

(6) **Other code requirements.** The applicant shall apply for and receive all applicable permits and licenses pursuant to the Municipal Code prior to establishing a temporary use and/or temporary structure on a lot.

(7) **Cleanup.** The site shall be completely cleaned of unsold merchandise, debris and temporary structures including, but not limited to: trash receptacles, signs, stands, poles, electrical wiring or any other fixtures and accessories or equipment connected therewith, after the termination of the temporary use or temporary structure.

(h) **Temporary uses.** The following temporary uses may be permitted as specified:

(1) **Outdoor sale of seasonal agricultural products.**
   a. Permitted zoning districts: AG, P-I, C-1, C-2 or CBD.
   b. Outdoor sales of seasonal agricultural products may be allowed on a lot for no more than one hundred twenty (120) total days per calendar year.
   c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).
   d. Outdoor sale of seasonal agricultural products are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor sale of seasonal agricultural products, shall be located within the vision corner, pursuant to §23-50, of this chapter.
   e. Temporary structures associated with the temporary use shall comply with the standards of this section.

(2) **Outdoor Christmas tree sales lot (including incidental sale of Christmas related items).**
   a. Permitted zoning districts: AG, R-1A, R-1B, R-1C, R-2, R-3, P-I, C-1, C-2, or CBD.
   b. Outdoor Christmas tree sales lot (including incidental sale of Christmas related items) may be allowed on a lot for no more than forty-five (45) total days per calendar year.
   c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).
   d. Hours of operation for an outdoor Christmas tree sales lot (including incidental sale of Christmas related items) shall be limited to 8:00 a.m. to 8:00 p.m. when placed on a residential zoned lot or associated with a residence.
   e. Outdoor Christmas tree sales lot (including incidental sale of Christmas related items) are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor Christmas tree sales lot (including incidental sale of Christmas related items) shall be located within the vision corner, pursuant to §23-50, of this chapter.
   f. Temporary structures associated with the temporary use shall comply with the standards of this section.

(3) **Outdoor fireworks sales.**
   a. Permitted zoning districts: C-1, C-2 or CBD.
b. Outdoor fireworks sales may be allowed on a lot for no more than sixty (60) total days per calendar year.

c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).

d. Outdoor fireworks sales are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor fireworks sales shall be located within the vision corner, pursuant to §23-50, of this chapter.

e. Temporary structures associated with the temporary use shall comply with the specific regulations of this section.

(4) **Rummage sales.**

   a. Permitted zoning districts: Any district when incidental to a residential dwelling.

   b. No temporary use permit is required pursuant to §23-54(b). Provision for parking spaces is not required for rummage sales.

   c. Rummage sales may be allowed on a lot for no more than three (3) consecutive days and that no lot shall be used for more than three (3) such sales in one (1) calendar year.

   d. The display of rummage sale items are exempt from the setback requirements of §23-54(g)(1)b, except that no rummage sale items shall be displayed and/or sold within the vision corner, pursuant to §23-50, of this chapter.

   e. Temporary structures associated with the temporary use shall comply with the standards of this section.

(5) **Outdoor temporary merchandise sales other than outdoor seasonal agricultural products, outdoor Christmas tree sales, outdoor firework sales/stands, rummage sales and outdoor farmers markets.**

   a. Permitted zoning districts: C-2 or CBD.

   b. No more than four (4) temporary use permits per lot shall be issued per calendar year.

   c. The maximum time limit per temporary use permit shall be five (5) days.

   d. The provision for parking spaces shall be provided on the same lot with the temporary use, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).

   e. Outdoor temporary merchandise sales are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor temporary merchandise sales shall be displayed and/or sold within the vision corner, pursuant to §23-50, of this chapter.

   f. Temporary structures associated with the temporary use shall comply with the standards of this section.

(6) **Outdoor farmers market.**

   a. Permitted zoning districts: AG, P-I, C-2 or CBD.

   b. Outdoor farmers market may be allowed on a lot for no more than one hundred twenty (120) total days per calendar year.

   c. The provision for parking spaces shall be provided on the same lot with the temporary use, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).
d. Outdoor farmers markets are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor farmers market shall be located within the vision corner, pursuant to §23-50, of this chapter.

e. Temporary structures associated with the temporary use shall comply with the specific regulations of this section.

(7) Temporary model home sales office.

a. Permitted zoning districts: R-1A, R-1B, R-1C, R-2 or R-3.

b. No temporary use permit is required pursuant to §23-54(b).

c. Temporary model home sales offices may be allowed on a lot for the purpose of promoting the sale, or rental of dwellings and/or lots, which are located only within the same residential development or subdivision for a period of three (3) years.

d. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).

e. There is no more than one (1) temporary model home sales office in the residential development or subdivision.

f. The temporary model home sales office shall be designed as a permanent dwelling that meets all relevant requirements of the Municipal Code.

g. The temporary model home sales office will be converted to residential use after it is used as a temporary model home sales office.

(i) Temporary structures. The following temporary structures may be permitted as specified:

(1) Temporary contractor’s offices.

a. Permitted zoning districts: Any district when associated with a construction project.

b. No temporary use permit is required pursuant to §23-54(b). Provision for parking spaces is not required for temporary contractor’s offices.

c. Temporary contractor’s offices may be located on a lot or vacant lot where there is a valid building permit issued for a permanent structure.

d. Temporary contractor’s offices shall be removed from the site upon issuance of a certificate of occupancy permit or upon occupancy of the permanent structure.

e. Temporary contractor’s offices shall be setback at least ten (10) feet from any property line.

f. Temporary contractor’s offices shall not be located within the vision corner, pursuant to §23-50, of this chapter.

(2) Tents or canopies.

a. Permitted zoning districts: Any district when associated with any permitted temporary use not including temporary model home sales office.

1. No temporary use permit is required pursuant to §23-54(b).

2. The maximum time limit shall be equal to the allowable time period for the temporary use, where such tent is incidental to the temporary use.
3. Tents or canopies shall not be located within the vision corner, pursuant to §23-50, of this chapter.

b. Permitted zoning districts: C-1, C-2, CBD, or M-2 district when associated with an outdoor display.
   1. No temporary use permit is required pursuant to §23-54(b).
   2. The maximum time limit shall be equal to the allowable time period for the outdoor display, where such tent is incidental to the outdoor display.
   3. Tents or canopies shall not be located within the vision corner, pursuant to §23-50, of this chapter.

(3) **Portable storage units.**

a. Permitted zoning districts: Any district when incidental to a residential dwelling.
   1. No temporary use permit is required pursuant to §23-54(b).
   2. A maximum of four (4) portable storage units not exceeding a cumulative gross floor area of two hundred (200) square feet shall be permitted on a lot for no more than sixty (60) total days per calendar year.
   3. The portable storage unit shall be placed on an impervious surface.
   4. The portable storage unit shall not be located within the vision corner, pursuant to §23-50, of this chapter.
   5. Portable storage units shall not be used for the purposes of a garage or shed.

b. Permitted zoning districts: P-I, C-O, C-1, C-2, CBD, M-1 or M-2.
   1. No more the three (3) temporary use permits per business shall be issued per calendar year.
   2. Two (2) portable storage units shall be the maximum allowed per temporary use permit.
   3. The maximum time limit per temporary use permit shall be thirty (30) days.
   4. Portable storage units shall be placed on an impervious surface.
   5. Portable storage units may be placed on a lot within a designated loading space or shall be placed on a lot pursuant to §23-54(g), of this chapter.

(4) **Temporary structures other than tents, canopies, temporary contractor’s offices, or portable storage units.**

a. Permitted zoning districts: Any district.

b. Temporary structures may be located on a lot provided the use occupying a temporary structure is listed as a principal permitted use or special use in the underlying zoning district.

c. The maximum time limit of the permit shall be equal to the allowable time period for the temporary use, where such temporary structure is associated with a temporary use.

d. Except as set forth in §23-54(i)(4)c, the maximum time limit of the permit for a temporary structure may be approved for a period not to exceed six (6) months per calendar year.

e. Temporary structures shall not be placed or located on pervious surfaces.

f. Temporary structures shall not be located within the vision corner, pursuant to §23-50 of this chapter.
(j) Other temporary uses or temporary structures. The Community and Economic Development Director may determine that an unlisted temporary use or temporary structure may be allowed if it is similar in character to other temporary uses or temporary structures listed in this section and meets the intent of this ordinance.

Table 3. Permitted Temporary Uses and Structures by Type and Zoning District.

<table>
<thead>
<tr>
<th>Temporary Use Type</th>
<th>AG</th>
<th>R-1A</th>
<th>R-1B</th>
<th>R-1C</th>
<th>R-2</th>
<th>R-3</th>
<th>NC</th>
<th>P-I</th>
<th>C-O</th>
<th>C-1</th>
<th>C-2</th>
<th>CBD</th>
<th>M-1</th>
<th>M-2</th>
<th>P</th>
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<tbody>
<tr>
<td>Outdoor sales of Seasonal Agricultural Products</td>
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<td>*</td>
<td>P</td>
<td>*</td>
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<td>P</td>
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<td>Outdoor Farmers Market</td>
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<td>Outdoor Temporary Merchandise Sales</td>
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<td>Rummage sales, when incidental to a residential dwelling</td>
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<td>Portable storage unit when incidental to a residential dwelling</td>
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<td>Tents/canopies when associated with temporary use</td>
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<td>Tents/canopies when associated with outdoor display</td>
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</tbody>
</table>

* = Temporary use type not allowed
A = Allowed without a temporary use permit.
A¹ = Allowed without a temporary use permit. However, Tents greater than 200 square feet and Canopies greater than 400 square feet require a permit from the Appleton Fire Department.
P = Temporary use permit required
S = Special Use Permit Required

(Ord 145-08, §1, 10-7-08 (repealed and recreated entire §23-54))

ARTICLE IV. ADMINISTRATION

Sec. 23-60. Purpose.

Administrative procedures and authority for administering, interpreting and enforcing this ordinance are herein established in order to achieve the following purposes:

(a) To provide for the review of site and development plans before obtaining a Certificate of Occupancy;

(b) To provide for the inclusion of necessary facilities, services and additional uses through special use permits;

(c) To provide for the inclusion of uses which are not specified in this ordinance, but which have characteristics and a land use impact similar to permitted uses;

(d) To assure that no work shall be started on relocation, construction, reconstruction, or structural alteration of a building, structure or use, until the building or use is found to comply with all provisions of this zoning ordinance;

(e) To assure, before construction of new buildings or the commencement of a use or occupancy, or before occupancy is continued after alterations or changes in use have been made, that all regulations of the City have been met by requiring a Certificate of Use and Occupancy; and

(f) To provide for the enforcement by issuance of orders by the Community and Economic Development Director or the Inspections Supervisor.


(a) Purpose. The Common Council, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter.

(b) Powers and duties. The Common Council, in general, performs the following functions:

(1) Approves or disapproves any application for an amendment to this chapter, including applications for amendment to the Official Zoning Map.

(2) Approves or disapproves any application for a special use permit.

(3) Approves or disapproves any application for a PD and TND.

(4) Approves or disapproves proposed amendments to the City's adopted land use policies.

(5) Takes such other action not delegated to other bodies that may be desirable and necessary to implement the provisions of this chapter.

(Ord 61-94, §5, 5-18-94)


(a) Purpose. The Plan Commission, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter as set forth in this section.

(b) Powers and duties. There is created a Plan Commission with the powers and duties and qualifications as set forth in this section and in Wisconsin Statutes §62.23. Such powers and duties generally include:

(1) To initiate, hear, review and offer its recommendations to the Common Council on applications for amendments to this chapter, including applications for amendment to the Official Zoning Map.

(2) To hear, review and offer its recommendations to the Common Council on applications for special use permits, subdivisions, annexations, PD, TND, official map actions, street vacations and name changes and other matters.

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(3) To prepare and recommend to the Common Council for adoption a comprehensive plan for the City, and from time to time to recommend to the Council such amendments as it may deem appropriate.

(4) To aid and assist the Common Council and the departments of the City in implementing the City’s adopted land use policies and in planning, developing and completing specific projects.

(5) To review and report on any matters referred to it by the Common Council.

(6) Review of any site plan upon disapproval by the Community and Economic Development Director.

(7) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board or commission of the City to aid them in the performance of their respective duties relating to the planning and development of the City.

(8) To review any similar use not specifically permitted, as denied by the Community and Economic Development Director, under §23-37(c). In no case shall this interpretation be construed as a process for a use variance.

(9) To review and offer its recommendation to the Common Council on requests for modifications or waivers to screening and landscaping requirements as set forth in §23-66(h)18.b.vii.5.a. thru c.

(c) **Structure.** The structure of the Plan Commission shall comply with City Municipal Code Charter Ordinance §3-100, et seq.

(d) **Organization.** The Plan Commission shall organize by the election of a vice-chairman and such other officers as may, in their judgment, be necessary.

1. The Plan Commission shall keep a written record of its proceedings to include all actions taken.

2. Four (4) members shall constitute a quorum.

(Ord 61-94, §5, 5-18-94; Ord 82-06, §1, 7-11-06; Ord 69-13, §1, 8-13-13)

Sec. 23-63. **Board of Appeals.**

(a) **Purpose.** The Board of Appeals, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter as set forth in this section.

(b) **Powers and duties.** There is created a Board of Appeals with the powers and duties and qualifications as set forth in this chapter and in Wisconsin Statutes §62.23. Such powers and duties include:

1. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Community and Economic Development Director or the Inspections Supervisor in the enforcement of this chapter.

2. To hear and decide upon applications for variances from the requirements of this chapter.

3. Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board or commission of the City to aid them in the performance of their respective duties relating to the planning and development of the City.

(c) **Structure.** The Board of Appeals shall consist of five (5) members appointed by the Mayor and subject to approval by the Common Council as vacancies occur.

1. One (1) member shall be an architect, engineer or contractor; one (1) member shall be a real estate broker; and three (3) members shall be selected for their knowledge of and interest in matters pertaining to this chapter.
(2) Members shall serve staggered five (5) year terms; one (1) expiring each year. Terms shall expire May 1 of each year.

(3) The Board shall reorganize in June of each year by electing a chairman, vice-chairman and secretary. All meetings of the Board shall be held at the call of the chairman or at such times as the Board determines.

(d) Procedures. The Board of Appeals shall hold meetings and make decisions in accordance with the following procedures:

(1) All hearings conducted by said Board shall be open to the public. Any person may appear and testify at a hearing, either in person, or by duly authorized agent or attorney.

(2) The Board of Appeals may call on any City department for assistance in the performance of its duties as may be reasonably required.

(3) All decisions made by the Board shall be made without unreasonable delay.

(4) The Board shall keep written minutes of its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact, and shall also keep records of its hearing and other official actions.

(5) Findings of fact shall be included in the minutes of each case.

(6) Every rule or regulation, amendment, decision or determination of the Board shall be filed promptly in the office of the board, and shall be a public record.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1c, 11-6-96; Ord 30-20, §1, 3-24-20)

Sec. 23-64. Administration.

(a) Purpose. The primary administration of this chapter is by the Community and Economic Development Director and Inspections Supervisor as noted below and cited throughout the chapter.

(b) The Community and Economic Development Director is responsible for performing the following duties:

(1) Review and administer all site plans required by this chapter;

(2) Review and approve or deny all applications for permitted use status under all zoning districts;

(3) Conduct preapplication conferences with petitioners for zoning map amendments;

(4) Receive, certify for completeness and forward to the Plan Commission all applications as prescribed by this chapter;

(5) Have possession of permanent and current records of this chapter, including the City’s Official Zoning Map and amendments to the Official Zoning Map, special use permits and ordinance amendments.

(6) Review and approve or deny requests for modifications or waivers to screening and landscaping requirements as set forth in §23-66(h)18.b.vii.5.a. thru c.

(c) The Inspections Supervisor is responsible for performing the following duties:

(1) Issue and maintain records of all building and sign permits;

(2) Issue and maintain records of all Certificates of Occupancy;

(3) Conduct inspections of buildings, structures and uses of land to determine compliance with the terms of this chapter;
(4) Make investigations with respect to matters referred to in this chapter;

(5) Issue violation notices requiring compliance, to advise suspected violators of their right to appeal and to issue citations for violations of this chapter;

(6) Require that all construction or work of any type be stopped when such work is not in compliance with this chapter and revoke any permit that was unlawfully issued without full compliance of the requirements of this chapter or under fraudulent conditions;

(7) Have possession of permanent and current records of this chapter, including Board of Appeals cases;

(8) Review, process and report findings and recommendations and forward appeal and variance requests to the Board of Appeals on those applications upon which the Board of Appeals is required to act;

(9) Enforce all orders of the Board of Appeals.

(Ord 107-96, §1, 11-6-96; Ord 83-06, §1, 7-11-06; Ord 70-13, §1, 8-13-13)

Sec. 23-65. Zoning amendments.

(a) Purpose. The amendment process provides a method for making changes in the zoning text and zoning map.

(b) Initiation.

(1) Proposed text amendments may be initiated by: Common Council, Plan Commission, the property owner or a resident of the City.

(2) Proposed map amendments may be initiated by: Common Council, Plan Commission, the owner of, or owner’s designated agent of the particular property to be rezoned.

(c) Text amendments.

(1) Proposal by Common Council or Plan Commission. Text amendments may be proposed by resolution of an alderperson submitted to the City Clerk to be forwarded to the Plan Commission or by direct initiation by the Plan Commission. If the Plan Commission determines an amendment proposed by an alderperson is primarily intended to serve an individual or narrow interest rather than the general public interest, it shall report such resolution with a recommendation that the benefiting party submit an application with appropriate fees.

(2) Application by property owner or resident. A property owner or resident wishing to amend the text of this chapter shall meet with the Community and Economic Development Director to discuss the proposed amendment. If the owner or resident wishes to pursue an amendment, they shall file an application form with the City Clerk accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review.

(3) Informal hearing. Within thirty (30) days of filing, the Community and Economic Development Director shall establish a date, time and place to hold an informal hearing before the Plan Commission. The Director will be responsible for analyzing the facts regarding the petition and prepare a staff review and recommendation for consideration by the Plan Commission.

(4) Action by Plan Commission. Within forty-five (45) days following the conclusion of the informal hearing, the Plan Commission shall transmit to the Common Council its recommendation. Failure of the Plan Commission to act within forty-five (45) days following the conclusion of such hearing shall be deemed a recommendation for the approval of the petitioned amendment as submitted.

(5) Public hearing. Within thirty (30) days of the receipt of the Plan Commission report, or its failure to act as above provided, (unless such time shall be extended by agreement with the petitioner) the Common Council shall hold a public hearing, advertised by a Class 2 notice.
(6) **Action by Common Council.** Within forty-five (45) days of the public hearing the Common Council shall either approve or deny the proposed amendment. Council action to approve the amendment shall be done by ordinance.

(d) **Map amendments.**

(1) **Proposal by Common Council or Plan Commission.** Amendments may be proposed by resolution of an alderperson submitted to the City Clerk to be forwarded to the Plan Commission or by direct initiation by the Plan Commission. If the Plan Commission determines an amendment proposed by an alderperson is primarily intended to serve an individual or narrow interest rather than the general public interest, it shall report such resolution with a recommendation that the benefiting party submit an application with appropriate fees. A resolution to initiate rezoning must be accompanied by the information required in subsection (2) that follows and shall be processed in accordance with the provisions of this section.

(2) **Application by owner or owner's designated agent.** An owner or owner's designated agent wishing to rezone his property shall meet with the Community and Economic Development Director to discuss the proposed rezoning. If the owner or owner's designated agent wishes to pursue a rezoning, they shall obtain, complete and file a rezoning application form with the City Clerk accompanied by a nonrefundable fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review. The application form shall contain, at a minimum, the following information:

a. Applicant and property owner's name, address and telephone number.

b. Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use.

c. Present zoning district and use of the property.

d. Proposed zoning district and description of proposed land use and/or structures.

e. Justification for rezoning.

f. Map of area, drawn to scale, outlining the parcel(s) requested for rezoning, identifying all adjacent streets, properties, existing zoning and present uses on all adjacent properties.

(3) **Standards for map amendments.** All recommendations for Official Zoning Map amendments shall be consistent with the adopted plans, goals and policies of the City and with the intent of this zoning ordinance.

a. Prior to making a recommendation on a proposed rezoning, the Plan Commission shall make a finding to determine if the following conditions exist. No rezoning of land shall be approved prior to finding at least one (1) of the following:

1. The request for a zone change is in conformance with the VISION 20/20: Comprehensive Plan for the City of Appleton.

2. A study submitted by the applicant that indicates that there has been an increase in the demand for land in the requested zoning district, and as a result, the supply of land within the City mapped as such on the Official Zoning Map, is inadequate to meet the demands for such development.

3. Proposed amendments cannot be accommodated by sites already zoned in the City due to lack of transportation, utilities or other development constraints, or the market to be served by the proposed use cannot be effectively served by the location of the existing zoning district(s).

4. There is an error in the code text or zoning map as enacted.

b. In addition to the findings required to be made by subsection (a), findings shall be made by the Plan Commission on each of the following matters based on the evidence presented:
1. The adequacy of public facilities such as transportation, utilities and other required public services to serve the proposed site.

2. The effect of the proposed rezoning on surrounding uses.

(4) **Informal hearing.** Within thirty (30) days of filing, the Community and Economic Development Director establish a date, time and place to hold an informal hearing before the Plan Commission. The Director will be responsible for analyzing the facts regarding the petition and prepare a staff review and recommendation for consideration by the Plan Commission.

(5) **Action by Plan Commission.** Within forty-five (45) days following the conclusion of the informal hearing, the Plan Commission shall transmit to the Common Council its recommendation. Failure of the commission to act within forty-five (45) days following the conclusion of such hearing shall be deemed a recommendation for the approval of the petitioned amendment as submitted.

(6) **Public hearing.** Within thirty (30) days of the receipt of the Plan Commission report, or its failure to act as above provided, (unless such time shall be extended by agreement with the petitioner) the Common Council shall hold a public hearing, advertised by a Class 2 notice.

(7) **Action by Common Council.** Within forty-five (45) days of the public hearing, the Common Council shall either approve or deny the petition unless the applicant requests an extension. If Council action is to approve the change, it shall further act to formally amend the Official Zoning Map by adopting an ordinance. In the case where the Plan Commission, excluding the chairman, unanimously denies the change, a three-fourths (3/4) vote of the members of the Common Council is required for approval of the amendment to this chapter.

(8) **Reapplication time period.** No application of a property owner or owner’s designated agent for an amendment to the zoning map shall be considered by the Plan Commission within a one (1) year period following a denial of the same request by the Common Council, except that the Plan Commission may permit a new application if the request is for a different zoning district or for amended property boundaries.

(9) **Concurrent actions for zoning amendment, planned development (PD) overlay and special use permit:**

   a. Applicants may submit a single petition to amend the Official Zoning Map to change a base zoning district and designate the same map area as a PD overlay district.

   b. Applicants may submit a single petition to amend the Official Zoning Map to change a base zoning district, designate the same map area as a PD overlay district and obtain approval for special uses within the PD overlay district. The procedure for considering such a request shall be the same as for a zoning map amendment. The Common Council may, at the request of the petitioner, consider the amendments and special uses as a single vote or separate votes. Any Common Council action which includes approval of a special use shall require a two-thirds (2/3) vote for approval.

   (e) **Zoning of annexed areas.** All territory that is annexed to the City shall be assigned zoning classifications as recommended by the Plan Commission during review of the annexation petition. The Plan Commission shall consider the following criteria in selection of an appropriate zoning district for the annexed land:

   (1) The existing land uses within the territory to be annexed;

   (2) The surrounding land uses that exist on adjacent properties regardless of municipal boundary lines;

   (3) The comprehensive plan of the City.

   A temporary zoning classification of AG agricultural zoning classification shall be assigned to newly annexed territory with no hearing required. However, if the Plan Commission recommends a temporary zoning classification other than AG Agricultural, the Common Council shall hold a public hearing on the assigned zoning classifications in accordance with §23-65(d), Zoning amendments. If time allows, said zoning shall be
included in the annexation ordinance; otherwise a temporary zoning classification shall be assigned with permanent zoning taking place following the annexation process.

The temporary zoning classification must be made permanent in accordance with §23-65(d), Map amendments, within ninety (90) days or the zoning will revert to AG agricultural zoning. A building permit shall not be granted until there is a permanent zoning classification.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96, Ord 46-00, §1, 6-10-00; Ord 121-05, §1, 10-25-05; Ord 31-20, §1, 3-24-20)

Sec. 23-66. Special use permits and special regulations.

(a) Authority. The Common Council, by an affirmative two-thirds (2/3) vote of the entire Council, may by resolution, approve, approve with conditions, deny, or revoke a special use permit for uses listed as special uses in this Chapter. The resolution functions as the special use permit that authorizes the recipient to establish a specific land use under specific terms and conditions.

(b) Purpose. The purpose of this section is to provide regulations which govern the procedure and requirements to review and approve, approve with conditions, deny, or revoke a special use permit. Special uses are those uses having some uniqueness or unusual impact which requires a careful review of their location, design, business process, and hours of operation to determine against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the community and neighborhood impact and effect as well as consistency to the comprehensive plan.

(c) Procedure.

(1) Application. An owner or owner's designated agent wishing to obtain a special use permit for his property shall meet with the Community and Economic Development Director to discuss the proposal. If the owner or owner's designated agent desires to pursue the special use permit, they shall obtain, complete and file a special use permit application form with the Community and Economic Development Department accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review. One (1) electronic document and one (1) paper copy of the application materials (completed application form, plan of operation and development plans) shall be submitted with the fee to the Director. After submittal and acceptance of a complete application through initial review by the Director, the complete application and supporting materials are then filed with the City Clerk. The special use permit application and supporting materials shall be referred to the Plan Commission.

(2) Public hearing. The Plan Commission shall hold a public hearing advertised by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

(3) Authority of the Plan Commission. The Plan Commission shall within forty-five (45) days of the public hearing make a report and recommendation of approval or denial of the resolution which functions as the special use permit to the Common Council pursuant to Section 23-66(c)(5). In making its decision, the Commission shall keep a written record of findings relative to the standards for considering special use permit applications as listed in Sections 23-66(c)(5) and (e).

(4) Authority of the Common Council. The Common Council shall within forty-five (45) days of Plan Commission action act to approve, approve with conditions or deny the special use permit by resolution pursuant to Section 23-66(c)(5) and (e). The resolution functions as the special use permit that authorizes the recipient to establish a specific land use under specific terms and conditions.

(5) Approval or denial by Plan Commission and Common Council.

a. Definition of Substantial Evidence. “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a special use permit and that reasonable persons would accept in support of a conclusion.
b. If a property owner or owner’s designated agent for a special use permit meets or agrees to meet all of the requirements and conditions specified in the City of Appleton Municipal Code or those imposed by the Plan Commission and/or Common Council, the City shall grant the special use permit. Any condition imposed must be related to the purpose of the City of Appleton Municipal Code and be based on substantial evidence.

c. Any requirements and conditions for approval must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The property owner or owner's designated agent must demonstrate that the application and all requirements and conditions established by the city relating to the special use are or shall be satisfied, both of which must be supported by substantial evidence. The City’s decision to approve or deny the permit must be supported by substantial evidence.

d. Once granted, a special use permit shall remain in effect as long as the conditions upon which the permit in the form of a resolution was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the Plan Commission and/or Common Council.

e. If a special use permit application is denied, the property owner or owner's designated agent may appeal the decision to the circuit court under the procedures contained in Wisconsin Statute §62.23(7)(e)(10) or as amended.

(d) Application requirements. The applicant shall provide the following information on the special use permit application form:

1. Applicant and property owner's name, address and telephone number.

2. Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.


4. Written justification for the special use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for special uses listed in subsection (e), Standards for granting special use permits, below.

5. Development plan of property being proposed for a special use permit which shall supply the information as identified below:

   a. North arrows, date of preparation, and scale on 8½” x 11” size paper.

   b. Name(s) of all adjacent or surrounding streets and right-of-way width(s).

   c. Recorded property lines and their dimensions.

   d. All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel.

   e. Dimensions of existing and proposed yard setbacks for buildings and structures.

   f. Dimensions of existing and proposed parking, loading, and unloading areas, sidewalks and interior and perimeter landscaping areas. Identify proposed and existing surface material(s).

   g. The location of existing and proposed trees, shrubs and grass.

   h. The location and details of proposed and existing refuse containers and their enclosures.

   i. The location and type of all proposed and existing exterior lighting fixtures.
j. The location, height and materials of all proposed and existing fences or retaining walls.

k. The location and size of existing and proposed driveways.

l. The location and use of buildings and structures on adjoining land.

m. Show the general landscaping concept for the site.

n. Submit preliminary architectural plans for the existing and proposed buildings that show sufficient detail to permit an understanding of the style of the development and the design of the building(s).

o. Submit floor plan of the building(s), including room dimensions.

p. Other additional information that may be deemed appropriate by the Community and Economic Development Director.

(e) Standards for granting special use permits. No special use permit shall be recommended by the Plan Commission, or approved by the Common Council, unless all of the following standards are found in the affirmative:

1. Proper zoning district. The proposed special use is designated by this Chapter as a possible special use in the zoning district in which the property in question is located.

2. District regulations. The proposed special use will comply with all applicable development standards in the zoning district in which the property in question is located.

3. Special regulations. The proposed use will comply with all special regulations established by this chapter for such special use.

4. Comprehensive Plan or other plans. The proposed special use is consistent with the Comprehensive Plan or other plan officially adopted by Common Council.

5. Traffic. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

6. Landscaping and screening. Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed special use as established in §23-172(g), Perimeter parking lot and loading space landscaping and §23-601, Landscaping and screening standards.

7. Neighborhood compatibility. The proposed use is compatible with the predominant or prevailing land use of the neighborhood surrounding the proposed development. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height of buildings, walls and fences, landscaping, screening, and exterior lighting.

8. Impact on services. The proposed special use will not substantially increase congestion in the public streets; will not place an undue burden on any other public utilities; or will not increase the danger of fire or endanger the public health or safety.

(f) Guarantees, validity period and revocation.

1. Expiration of special use permits.

a. A special use permit shall expire if the use is abandoned for a period of twelve (12) consecutive months.

b. A special use permit shall expire if a building permit and/or occupancy permit has not been obtained within twelve (12) months of the issuance of the special use permit.
c. A special use permit shall expire if the use has not been established within twelve (12) months of the issuance of the special use permit.

(2) **Time extension of special use permits.** Any party who has been issued a special use permit by the City shall notify the Community and Economic Development Director, in writing, that they are seeking a continuance or extension of any special use permit that has an expiration date as established by Common Council or this section. Such notification shall be submitted to the Community and Economic Development Director thirty (30) days prior to the special use permit expiration. The Community Development Director may grant one extension not to exceed 12 months.

(3) **Effective date and filing of special use permits.** A special use permit shall become effective upon approval of the resolution by the Common Council. A record of the special use permit shall be kept in the City Clerk and Community and Economic Development Department’s files.

(4) **Continuation of a special use permit.** Once approved, a special use permit shall be allowed to continue and may be transferred to any entity, unless specified otherwise as a condition of approval, as long as all conditions placed on the special use are followed.

(5) **Revocation of special use permits.** Upon inspection by the Inspections Supervisor of any complaint against any condition upon which the special use permit was approved, such permit may be subject to revocation if the violation is not corrected with 30 days of written notice to the owner of the use by the Inspections Supervisor. Such written notice shall specify the violation and the means necessary to correct it. If the violation is not corrected within the specified time, the Common Council shall have the authority to revoke the special use permit upon recommendation of the Plan Commission after holding a public hearing by advertising a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

(g) **Major and minor changes to special uses.** When an applicant requests a change in special use, the City shall review such change or modification to assure compatibility and compliance with the purpose of this section.

(1) **Minor change.** Minor changes shall be submitted to and be reviewed and approved by the Plan Commission amending the previously approved resolution (special use permit) or adopting a new resolution (special use permit) to those special uses that were not approved by a resolution. Minor changes include:

a. Expansions of special uses of less than ten percent (10%).

b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.

(2) **Major change.** All other changes not identified as a “minor change” shall be deemed a major change in a special use and shall be submitted to Common Council for review per §23-66(c), Special use permits, procedure.

(h) **Special regulations.** The following special regulations shall apply to uses listed below, whether listed a principal permitted use, special use or accessory use in this chapter.

(1) **Electronic towers.** Radio, television, broadcasting tower or station, microwave and other electronic transmission or receiving tower in excess of sixty (60) feet (from ground level) in height in any zone shall be subject to the following standards as illustrated on a site plan submitted with the application for special use permit. Electronic towers shall not include wireless telecommunication towers or facilities that are regulated in Article XIII, Wireless telecommunication facilities, of this zoning ordinance.

a. Distance of each freestanding tower base footing from any residentially zoned lot line shall have a horizontal distance equal to at least fifty percent (50%) of the height of the tower, or fifty (50) feet, whichever is greater.
b. Distance of any guyed tower anchor shall be twenty-five (25) feet from an adjoining lot line, public property or street right-of-way line.

c. The applicant shall demonstrate that the location of the tower will not cause electrical interference or health hazards to adjoining properties. If electrical interference occurs after the tower begins operation or if interference is anticipated, the applicant shall provide appropriate steps to eliminate said interference.

d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.

e. Minimum landscaping features for all tower sites when abutting residential properties shall consist of at least one (1) row of staggered evergreen trees or shrubs, at least four (4) feet high at the time of planting, which are spaced not more than ten (10) feet apart and planted within twenty-five (25) feet of the site boundary.

f. The plans submitted for a building permit for tower construction shall be certified by a structural engineer licensed in Wisconsin.

g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(2) **Utility substations and other utility structures.** Utility substations or other utility structures in any zone shall be subject to the following additional standards:

a. All buildings and structures shall be screened from view from any adjacent property; the screening shall include a minimum five (5) foot high staggered row of evergreen vegetation which provides an effective year-round screening in addition to any fencing which may be deemed appropriate to provide additional screening from any adjacent property.

b. All such uses shall be enclosed with a minimum six (6) foot high fence where any hazard to the safety of human life is anticipated.

c. No service or storage yard for such facility shall be permitted, unless screened in accordance with the outdoor storage requirements to this chapter.

d. All buildings and structures shall comply with the minimum principal building front, side and rear yard standards of the underlying zoning district.

e. The level of noise emanating from such use shall not exceed sixty (60) decibels measured at any lot line of the subject property.

f. No special use permit is required if the utility substation is proposed to be located fully inside an existing building and is accessory to the primary use of the building.

(3) **Sexually-oriented establishment.**

Sexually-oriented establishments shall be as regulated in Article XII, Sexually-oriented establishments, of this zoning ordinance.

(4) **Body repair and/or paint shop.**

a. All repair, painting and service of vehicles shall occur within a completely enclosed building.

b. All vehicles awaiting repair shall be located within the side and rear yard and shall be completely screened from view from any public street, alley and adjacent property.

c. All outdoor storage areas shall comply with the outdoor storage area requirements identified in this chapter.
d. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(5) **New and used automobile, RV, truck, cycle, boat sales and display lot.**

a. All outdoor lighting shall comply with the standards in §23-53, Outdoor lighting.

b. The minimum landscaping for display lots shall consist of the following landscaping standards:

1. Perimeter setbacks.
   i. Side and rear yards shall be a minimum of a five (5) foot wide buffer except when abutting a residential or public-institutional district, then ten (10) feet.
   ii. Front yards shall be a minimum of a five (5) foot wide buffer.

2. Perimeter landscape material.
   i. Side and rear yards shall have a minimum six (6) foot high, staggered row of evergreens when abutting a residential or public-institutional zoned district. The property owner may request a waiver from the Community and Economic Development Director to reduce the setback and provide a six (6) foot high alternating board on board fence with landscaping.
   ii. Perimeters adjacent to the right-of-way (front yards) shall have a minimum one (1) foot high, staggered row of evergreen and deciduous shrubs across eighty percent (80%) of the lot frontage, excluding driveway openings. Furthermore, one (1) shade tree shall be provided at approximately every forty (40) feet on center when the site abuts a dedicated public street.

3. Interior landscaping.
   i. Display lots 0-22,000 square feet in area – No interior planting islands required.
   ii. Display lots 22,001 square feet in area or greater – Not less than two percent (2%) of the display lot area shall be devoted to interior planting islands. The planting islands may be centrally located within the display lot and contain a minimum of one hundred sixty (160) square feet and be a minimum of seven (7) feet in width.

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4. **Interior landscape material.**

   The primary plant materials shall be deciduous trees with at least one (1) deciduous tree for every one hundred sixty (160) square feet of interior planting island area.

c. The outdoor display of merchandise and vehicles for sale shall not be located in areas intended for traffic circulation according to the site plan and development plan.

d. No outdoor loudspeakers shall be in use between the hours of 8:00 p.m. and 8:00 a.m. when adjacent to a residential district.

(6) **Bars, taverns, painting/craft studios and restaurants with alcohol sales.**

   a. Such establishments shall conform to the standards established in Chapter 9, Article III, Alcoholic beverages, of the Appleton Municipal Code.

   b. The site shall be kept free of litter and debris.

   c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
(7) **Circus or carnivals.**
   a. In no case shall carnival rides or midways be within three hundred (300) feet of any residential zoning district or residence.
   b. All other approved temporary structures associated with the circus or carnival shall comply with the standards of §23-54.

(8) **Gasoline sales.**
   a. A minimum lot area of eighteen thousand (18,000) square feet shall be required. Lot frontage shall be a minimum of one hundred twenty (120) feet if located on a designated arterial street.
   b. A canopy constructed over gas pumps islands shall architecturally match the design of the main building and shall not exceed twenty-two (22) feet in height.
   c. All canopy lighting must project downward and shall be of full cutoff design unless indirect lighting is to be used whereby light is directed upward and then reflected down from the ceiling of the structure. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the ceiling of the canopy and shall comply with the standards in §23-53, Outdoor lighting.
   d. All gas pumps and canopies constructed over gas pumps shall be setback a minimum of forty (40) feet from any adjacent residentially zoned district.
   e. All outdoor storage and outdoor sales display areas shall comply with §23-46, Outdoor storage and display in non-residential districts, of this chapter.
   f. All gas pumps and canopies shall comply with the minimum principal building front, side and rear yard standards of the underlying zoning district.
   g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
   (Ord 30-11, §1, 1-25-11)

(9) **Helicopter landing pad.**
   a. Setbacks, landscaping and fencing appropriate to the specific nature of the use proposed shall be established during the special use permit review process.
   b. All areas for active use, including above ground fuel storage tanks shall be fully screened with a fence or evergreen shrubs.
   c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
   d. Unless necessary for medical or emergency purposes, the hours for operation shall be between 7:00 a.m. – 8:00 p.m.

(10) **Mobile home parks.** Mobile home parks shall meet the standards and requirements of the City of Appleton's Manufactured and Mobile Homes and Manufactured and Mobile Home Communities Ordinance (Ch. 11).

(11) **Outdoor commercial entertainment.**
   a. All buildings, structures, viewing areas or seating areas shall be setback at least two hundred (200) feet from any residentially zoned district.
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b. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.

c. The hours of operation shall be identified by the applicant and approved by the Common Council as part of the special use permit process.

(12) Outdoor kennels.

Such uses shall conform to the standards established in Chapter 3, Animals, of the Appleton Municipal Code and as established below:

a. All outdoor areas for dogs shall be fully enclosed with a six (6) foot high opaque fence.

b. All outdoor areas for dogs shall be located in the rear yard only and be setback from a minimum of twenty (20) feet from the lot lines.

c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(13) Recycling and waste recovery center.

a. All processing operations shall occur within a completely enclosed structure or building.

b. Outdoor storage shall be limited to drop-off recycling bins and shall comply with the applicable outdoor storage requirements of this chapter.

(14) Recycling collection point.

a. Recycling collection points shall not be located in areas intended for pedestrian and motor vehicle traffic and emergency service vehicle circulation on the premises.

b. No processing of materials shall occur on premises.

c. Collection points shall not be located on a vacant lot.

(15) Towing business.

a. No servicing or maintenance of vehicles shall occur within the designated impound area.

b. All designated impound areas located outside of an enclosed building shall be fully screened by an opaque fence, hedge or similar evergreen planting.

c. No vehicles shall be located outside of the designated impound area.

d. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.

(16) Custom manufacturing.

a. All custom manufacturing processes shall occur within a completely enclosed building.

b. No off-site impacts including noise, odor, heat generation, glare or vibration shall occur on adjacent properties.

c. The products or goods manufactured on premise shall be displayed or sold on premises.
d. The on-site production area and materials storage area for the products or goods manufactured on premises shall not occupy more than thirty percent (30%) of the gross floor area of the space occupied by the custom manufacturing use.

(17) Urban farm.

a. Use of produce and sales. Retail sales of plants and produce grown on-site and other public use of the urban farm may occur between the hours of 8:00 a.m. and 8:00 p.m. every day of the week unless otherwise adjusted and stipulated by the Special Use Permit.

b. Mechanical equipment. The operating of mechanical equipment or motor vehicle, including but not limited to lawn mowers, rototillers, garden tractors, motorized weed trimmers, “farm tractor”, “all terrain vehicle” or any similar device, necessary for the maintenance of property shall only take place between the hours of 7:00 a.m. and 10:00 p.m. standard time or daylight savings time when in effect with the exception of snow removal equipment.

c. Signs. One identification sign is permitted not exceeding eight (8) feet in height or forty-eight (48) square feet per sign face, and shall be subject to other applicable provisions of ARTICLE XIV. SIGNS including, but not limited to, setback and clearance standards.

d. Agricultural chemicals and seeds. All seed and fertilizer shall be stored in a secured, rodent-proof container and housed within an enclosed structure.

e. Accessibility. The urban farm must comply with Americans with Disabilities Act design standards for accessible entrance routes and accessible routes between its different components and must follow universal design principles whenever possible.

f. Planting area and principal building setbacks. Development Standards. (See applicable zoning district for principal building/structure development standards).

g. Size of buildings/structures. All buildings, including but not limited to, tool sheds, rest-room facilities, composting toilets, and planting preparation houses, hoophouses and greenhouses may have a combined area of all buildings and structures not to exceed twenty-five percent (25%) percent of the lot area. Roof top gardens on buildings are exempt from this standard.

h. Fences. Fences are permitted as regulated in the underlying district unless otherwise authorized and stipulated by the Special Use Permit.

i. Compost and waste management. Composting and waste management must be managed according to the farm management plan. Compost material is limited only to the materials generated on-site and must be maintained on-site. Compost materials from the garden or gardeners shall be stored in a manner that is not visible from adjacent property (shielded from view by shrubbery or an enclosure). Composting shall be conducted in a manner that controls odor, prevents infestation, and minimizes runoff into waterways and onto adjacent properties. No compost material generated off site shall be composted at an urban farm unless specifically approved by the City.

j. Site design. The site must be designed so that water and fertilizers will not drain onto adjacent property or into the City’s waste water system.

k. Management plan. Urban farms must prepare a management plan, to be reviewed as part of the special use process, to address how activities will be managed to avoid impacts on surrounding land uses and natural systems and includes any proposed mitigation measures. The management plan must include:

i. A description of the type of equipment and vehicles necessary or intended for use in each season and the frequency and duration of anticipated use.

ii. Disclosure of any intent to spray or otherwise apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests or other purposes they are intended for.
iii. Disclosure of the spreading of manure or any other waste generated by the agricultural use.

iv. Disclosure of parking impacts related to the number of staff on-site during work hours, and the number of potential visitors regularly associated with the site.

v. Disclosure of whether the operation of the urban farm would involve two thousand (2,000) square feet or more of land-disturbing activity, or would otherwise require drainage and/or erosion control approval under Chapter 24 of the Municipal Code.

vi. A composting and waste management plan.

vii. Disclosure of any intent to invite the public to a program of events on the site.

viii. Site Plan contains, but is not limited to, the following:

- Parking facilities;
- Planting area including plant types;
- Location and number of rest room/sanitary facilities;
- Fence type, height and location;
- Sign size and location;
- Area to be utilized for produce cleaning and preparation;
- Area to be utilized for sales;
- Equipment, materials and fuel storage area;
- Composting location.

ix. Identification of water source.

x. Any additional information that may be deemed appropriate by the Director of Community and Economic Development or designee.

xi. Lighting.

xii. Security.

1. **Standard conditions of approval.** In addition to complying with Section 23-66 Special use permits of this ordinance and in determining whether to approve, approve with conditions or deny the application, the City shall consider the potential impacts, including:

i. **Water quality and soils.** Impacts of irrigation run-off on adjacent properties, water bodies and environmentally critical areas, and proposed sediment and erosion control measures.

ii. **Traffic and parking.** Impacts related to the number of staff onsite during work hours, and the number of potential visitors regularly associated with the site.

iii. **Visual impacts and screening.** Visual impacts relating to the proposed nature, location, design, and size of proposed buildings, structures and activities, including the location of composting activities and planting areas, and any existing or proposed screening.
iv. **Noise and odor.** Impacts related to the location on the lot of the proposed urban farm, any trash or compost storage areas, any farm stand or additional accessory structure, and any other noise-generating or odor-generating equipment and practices.

v. **Agricultural chemicals.** Impacts related to the use of chemicals, including any fertilizer and pesticide.

vi. **Mechanical equipment.** Impacts related to the operation of equipment, including noise, odors, and vibration.

m. **Compliance with laws.** All urban farms and their owners, lessees, employees, volunteers, and visitors must comply with all federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the farm premises. Site users may not use materials such as inappropriate fill that introduce heavy metals or other harmful contaminants to garden or farm sites. Site users may use pesticides only to the extent permitted by law.

These Urban Farm standards and requirements are intended to work in concert with other applicable Municipal Codes including, but not limited to, Chapter 3 Animals, Chapter 4 Building, Chapter 7 Health, Chapter 9, Licenses, Permits, and Chapter 21 Vegetation and any other applicable Appleton Municipal Code Chapter. These and any other applicable local, state and federal regulations shall also apply.

### Outdoor storage area for recreational vehicles.

a. **Purpose.** The purpose of these regulations is to provide adequate and convenient areas for such outdoor storage of recreational vehicles while minimizing the visual, noise and environmental impacts to adjacent properties and public and private streets.

b. **Requirements.** Outdoor storage areas for recreational vehicles are accessory uses to personal storage facilities (self-storage/mini-warehouses) and shall be a permitted accessory use in the M-2 District. No outdoor storage areas for recreational vehicles shall be constructed or established on a lot unless a personal storage (self-storage/mini-warehouse) facility has already been constructed on the same lot. In addition, all of the following requirements shall apply to outdoor storage areas for recreational vehicles:

i. **Applicable Outdoor Storage.** Outdoor storage shall be limited only to the following recreational vehicles: “camping trailer”, “fifth-wheel trailer”, or “motor home” as those terms are defined by §340.01, Wis. Stats., as well as boat trailers and boats, trailered snowmobiles, trailered jet-ski(s). All other vehicles, equipment and other items are prohibited from being stored within such outdoor storage area and on the lot.

ii. **Location.** No outdoor storage area shall be located between the principal building(s) and a front lot line.

iii. **Outdoor lighting.** All outdoor lighting used to illuminate such outdoor storage area shall comply with the outdoor lighting requirements of this chapter.

iv. **Surface material.** The surface material of the outdoor storage area and driveway leading from the lot line to such outdoor storage area shall be concrete or asphalt.

v. **Setbacks requirements.** The surface material of the outdoor storage area shall be located a minimum of fifteen (15) feet from a side and/or rear lot line.

vi. **Security requirements.** The perimeter (outer boundary) of the outdoor storage areas shall be secured with a continuous (with no break points) minimum eight (8) foot high fence or with continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to outdoor storage area, unless otherwise specified in this subsection.
vii. **Screening requirements.**

1. The perimeter (outer boundary) of the outdoor storage areas shall be screened with a continuous (with no break points) minimum eight (8) foot high opaque fence or continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high opaque fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to the outdoor storage area and minimize visual impact of recreational vehicles stored in such area, unless otherwise specified in this subsection.

2. Where outdoor storage areas for recreational vehicles are proposed on parcels which abut a residential zoning district, a continuous staggered row of evergreens plantings shall be installed between the entire length of the opaque fencing and the lot line which abuts a residential zoning district but not including a gate, to soften the visual effect of the fencing. Evergreens shall be a minimum of six (6) feet high at the time of planting. The number of evergreens shall be determined and installed in accordance with the requirements with the species spacing and care requirements.

3. The following shall apply to opaque fences abutting a street:

   a. **Front lot line setback:** Eight (8) feet minimum.

   b. **Fence height:** Eight (8) feet minimum.

   c. **Vision corner:** Fences shall comply with vision corner requirements of this chapter.

   d. **Design:** Chain-link or cyclone fences constructed of woven wire are not allowed.

   e. **Landscaping:** A continuous staggered row of evergreens and deciduous plantings shall be installed between the entire length of the opaque fence and the front lot line but not including a gate, to soften the visual effect of the fencing and use. Evergreens and deciduous plantings shall be a minimum of four (4) to five (5) feet high at the time of planting. The number of evergreens and deciduous plantings shall be determined and installed in accordance with the requirements with the species spacing and care requirements.

4. **Exceptions to perimeter fence and landscaping location.** Any request or necessity for locating a fence, opaque fence and/or evergreens and deciduous plantings other than along perimeter of the outdoor storage area, shall require review and approval of an alternate location as part of the
site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action of alternate fence, opaque fence and/or evergreen and deciduous planting locations, shall be based upon the following criteria:

a. The ability of the fence or opaque fence to maintain a continuous flow (with no break points) beyond the perimeter of the outdoor storage area.

b. Effectiveness of the opaque fence and/or landscape plantings to effectively screen the outdoor storage area in an alternate location; and

c. Effectiveness of the fence and/or opaque fence to effectively secure the outdoor storage area in an alternate location;

d. Impact an alternative location may have on overall site appearance, vehicular traffic circulation and the functional well-being of the development proposed for the parcel.

5. Modifications or waivers to screening and landscaping requirements. Any request for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall require review and approval of such modification or waiver as part of the site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall be based upon one (1) or more of the following conditions exist:

a. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree’s maturity height due to topography or the location of the outdoor storage area on the lot.

b. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree’s maturity height due to the presence of required screening, opaque fencing and/or landscaping on the lot.

c. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree’s maturity height due to the presence of required screening, opaque fencing and/or landscaping on adjacent developed property and/or the presence of existing street trees located within the adjacent street right-of-way.

c. General Conditions. The following general conditions shall apply to outdoor storage areas for recreational vehicles:

i. Recreational vehicles shall not be parked outside of the designated outdoor storage area.

ii. Recreational vehicles shall not be used for business, living, sleeping or human habitation purposes.

iii. Recreational vehicles shall not be permanently connected to sewer lines, water lines, or electricity.

iv. No recreational vehicles are allowed to be stored within the designated outdoor storage area which is not currently licensed or operable.

v. The area between the property line and the opaque security fence shall be landscaped and suitable ground cover, such as grass, bark, ornamental gravel or combination thereof.

vi. The total combined square foot area of the outdoor storage area but not including the drive aisles within the perimeter of the outdoor storage area shall not exceed the total combined gross floor area of all personal storage (self-storage/mini-warehouse) buildings on the site or parcel.
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(19) Microbrewery/Brewpubs and Craft-Distilleries.
   a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
   b. A total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
   c. A total of not more than 100,000 proof gallons of intoxicating liquor shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
   d. Tasting rooms require a Special Use Permit in the C-1, C-2 and CBD Zoning District.
   e. Tasting rooms are accessory uses to a Microbrewery/Brewpubs and Craft-Distilleries located in the M-1 and M-2 Zoning District and requires a Special Use Permit.
   f. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(20) Brewery and Distilleries.
   a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
   b. Tasting rooms are accessory uses to a Brewery and Distilleries located in the M-1 and M-2 Zoning District and requires a Special Use Permit.
   c. Retail sales of business merchandise on the brewery and distillery premises shall be an accessory use to the brewery and distillery manufacturing operations or an accessory use to an use approved off-premises by Special Use Permit pursuant to Section 23-66(h)(20)b.
   d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(21) Winery.
   a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
   b. Tasting rooms are accessory uses to a Winery located in the Ag, M-2 and M-1 Zoning District and requires a Special Use Permit.
   c. Retail sales of business merchandise on the winery premises shall be an accessory use to the winery manufacturing operations or an accessory use to an use approved off-premises by Special Use Permit pursuant to Section 23-66(h)(21)b.
   d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

Sec. 23-67. Variances.

(a) Purpose. The purpose of a variance is to allow relief from the strict application of this zoning ordinance as will not be contrary to the public interest and, where owing to special characteristics of the property or use, the literal enforcement of this ordinance would result in unnecessary hardship or in a practical difficulty for the property owner.
(b) **Definitions of variance type.**

(1) Area variance – In this section, an “area variance” means a modification to a development standard, dimensional, physical, or locational requirement including but not limited to setbacks, lot coverage, area, building height, or density restriction for a use, building and/or structure that is granted by the Board of Appeals under this paragraph.

(2) Use variance – In this section, a “use variance” means an authorization by the Board of Appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

(c) **Initiation of request for approval of a variance.** A variance request may be taken to the Board of Appeals by any person, firm, corporation, by any officer, department, board, bureau or commission with a legal or equitable interest in the property for which the variance is requested.

(d) **Standards for granting a variance.**

(1) Area variance – A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this section, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

(2) Use variance – A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this section, for a use variance by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance.

(3) In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

(e) **Procedure.**

(1) **Application.** Application for a variance shall be filed with the Inspections Supervisor accompanied by a non-refundable application fee that may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review.

(2) **Public hearing.** After receiving an application, the Board of Appeals shall hold a public hearing on the application for variance which:

   a. The Board of Appeals shall advertise the request by a Class 2 notice for public hearing;

   b. The Board of Appeals shall notify all property owners located within one hundred (100) feet of the subject site a minimum of ten (10) days prior to the public hearing.

(f) **Review by the Board of Appeals.** The requested variance shall be reviewed by the Board of Appeals with the standards below:

(1) **(Area variances) unique physical property limitations standard:** What exceptional or extraordinary circumstances or special factors or unique property limitations including but not limited to an irregular shape of the lot, topography, soil conditions, wetlands, flood plain, environmental contamination or other conditions that are present which apply only to the subject property? In what manner do the factors listed prohibit the development of the subject property?

(2) **(Area variances) no harm to public interests standard:** Would granting of the proposed variance result in a substantial or undue adverse impact on the public or character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property, or other matters affecting the public health, safety, or general welfare?
(3) **(Area variances) self-created hardships standard:** Have factors which present the reason for the proposed variance been created by the act of the applicant or previous property owner or their agent?

(4) **(Area variances) unnecessary hardships standard:** Would compliance with this Chapter unreasonably prevent the owner from using the property for a permitted purpose or would conformity with this Chapter create an unnecessary burden on the property owner?

(5) **(Area variances) undue off-street parking and loading hardships standard:** Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unnecessary hardship upon the use of a lot, as contrasted with merely granting an advantage or a convenience and there is an acceptable parking alternative available.

(6) **(Use variances) no reasonable use standard:** Has the applicant or owner demonstrated that they have “no reasonable use of the property” in absence of a variance?

**Review and determination by Board of Appeals.**

1. The Board of Appeals must determine whether a variance request is seeking an area variance or seeking a use variance.

2. The Board of Appeals must determine the standard that applies for the grant of the variance.

3. The Board of Appeals must require the property owner bear the burden of proof.

4. Any variance granted must be due to conditions unique to the property rather than considerations personal to the property owner.

5. The variance cannot be granted if the hardship was created by the property owner.

6. The concurring vote of four (4) members of the Board shall be necessary to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. A variance granted under this section runs with the land.

**Relief.** Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City, shall have recourse to such relief as is provided by Wisconsin Statutes §62.23(7)(e)(10) or as amended.

(Ord 146-07, §1, 10-9-07; Ord 33-20, §1, 3-24-20)

Sec. 23-68. Administrative appeals.

(a) **Purpose.** The Board of Appeals shall hear and decide cases where it is alleged there is error of law in any order, requirement, decision or determination made by the Community and Economic Development Director or Inspections Supervisor in the enforcement of this zoning ordinance.

(b) **Initiation.** An appeal may be filed with the Board of Appeals by any person, firm or corporation, or by any office, department, board, bureau or commission affected by an administrative order, requirement, decision or determination of the Community and Economic Development Director or Inspections Supervisor.

(c) **Process.**

1. Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed was taken.

2. The Board of Appeals shall hold a public hearing on the application for appeal advertised by a Class 2 notice for public hearing.
(d) **Decisions.**

(1) The Board of Appeals shall hear testimony and evidence concerning appeals, and prepare findings of fact and shall render a final decision on all appeals.

(2) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Community and Economic Development Director or Inspections Supervisor, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1c, 11-6-96)

**Sec. 23-69. Enforcement.**

(a) **Enforcing officer.** The Inspections Supervisor shall be responsible for enforcing the provisions of this chapter.

(b) **Penalty.** Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §1-16 of the Municipal Code.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1b, 11-6-96)

**Secs. 23-70 – 23-90. Reserved.**
ARTICLE V. RESIDENTIAL DISTRICTS

Sec. 23-91. AG Agricultural district.

(a) **Purpose.** The AG district is intended for areas of active agricultural use that are subject to future urban or suburban development. Permitted land uses include relatively low density uses such as agriculture and uses which require large sites and relatively limited investment in fixed structures. This zoning district serves as a holding district for land that may be subject to rezoning for purposes other than agricultural uses.

(b) **Principal permitted uses.** The following uses are permitted as of right in the AG district:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
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<tbody>
<tr>
<td>• Dwelling, single family, detached</td>
<td>• Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52</td>
<td>• Agriculture</td>
</tr>
<tr>
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<td>• Governmental facilities</td>
<td>• Community garden</td>
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<td></td>
<td>• Public parks or playgrounds</td>
<td>• Greenhouse or greenhouse nursery.</td>
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<td>• Nursery, orchards or tree farm</td>
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<td>• Urban farm pursuant to §23-66(h)(17)</td>
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<td>• Winery pursuant to §23-66(h)(21)</td>
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(c) **Accessory uses.** Accessory uses in the AG district may include:

1. The accessory uses, buildings and structures specified in §23-43 are permitted as of right in the AG District.
3. Home occupation pursuant to §23-45.
4. Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the AG District.

(e) **Special uses.** Special uses in the AG district may include:

<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>• Essential services</td>
<td>• Electronic towers pursuant to §23-66(h)(1)</td>
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<td>• Outdoor commercial entertainment pursuant to §23-66(h)(11)</td>
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<td>• Indoor kennel or outdoor kennel; pursuant to §23-66(h)(12)</td>
</tr>
</tbody>
</table>

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the AG district are as follows:

1. **Minimum lot area.** Ten (10) acres.
2. **Minimum lot width.** One hundred fifty (150) feet.
3. **Minimum front yard.** Thirty (30) feet.
4. **Minimum rear yard.** Forty (40) feet.
5. **Minimum side yard.** Forty (40) feet.
6. **Maximum building height.** One hundred (100) feet for non-residential uses. Thirty-five (35) feet for residential uses.
(7) **Maximum lot coverage.** Twenty percent (20%).

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 83-07, §1, 5-8-07; Ord 90-08, §1, 5-27-08; Ord 147-08, §1, 10-7-08; Ord 48-12, §1, 6-6-12; Ord 49-12, §1, 6-6-12; Ord 34-20, §1, 3-24-20)

**Sec. 23-92. R-1A single-family district.**

(a) **Purpose.** The R-1A district is intended to provide for, and maintain, residential areas characterized predominately by single family detached dwellings on larger sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential land uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-1A district:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Dwelling, single family, detached</td>
<td></td>
</tr>
<tr>
<td>• Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52</td>
<td></td>
</tr>
<tr>
<td>• Day care, adult; serving five (5) or fewer persons</td>
<td></td>
</tr>
<tr>
<td>• Day care, family</td>
<td></td>
</tr>
<tr>
<td>• Family home, adult (A) and (D), pursuant to §23-22</td>
<td></td>
</tr>
<tr>
<td>• Family home, adult (B) and (C), pursuant to §23-52</td>
<td></td>
</tr>
<tr>
<td>• Governmental facilities</td>
<td></td>
</tr>
<tr>
<td>Non-Residential Uses</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td></td>
</tr>
</tbody>
</table>

(c) **Accessory uses.** Accessory uses in the R-1A district may include:

1. The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1A district, except for boats or boat trailers greater than twenty-six (26) feet in length.
3. Home occupation pursuant to §23-45.
4. Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-1A District.

(e) **Special uses.** Special uses in the R-1A district may include:

<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></td>
<td></td>
</tr>
<tr>
<td>• Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Educational institution; business, technical or vocational school</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Educational institution; college or university</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Electronic towers pursuant to §23-66(h)(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Recycling collection point; pursuant to §23-66(h)(14)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Urban farm pursuant to §23-66(h)(17)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ZONING

<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>university.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Educational institution; elementary school, junior high school, or high school</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Essential services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Marina and/or boat landing.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Place of worship</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Public parks or playgrounds</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recreation facility, non-profit</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</td>
<td></td>
</tr>
</tbody>
</table>

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the R-1A district are as follows:

1. **Minimum lot area.** Eight thousand (8,000) square feet.
2. **Maximum lot coverage.** Forty percent (40%).
3. **Minimum lot width.** Seventy (70) feet.
4. **Minimum front yard.** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
5. **Minimum rear yard.** Twenty-five (25) feet.
6. **Minimum side yard.** Eight (8) feet.
7. **Maximum building height.** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 84-07, §1, 5-8-07; Ord 91-08, §1, 5-27-08; Ord 148-08, §1, 10-7-08; Ord 35-20, §1, 3-24-20)

Sec. 23-93. R-1B single-family district.

(a) **Purpose.** The R-1B district is intended to provide for and maintain residential areas characterized predominately by single-family, detached dwellings on medium sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-1B district:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling, single-family, detached</td>
<td>Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52</td>
<td>None</td>
</tr>
<tr>
<td></td>
<td>Day care, adult; serving five (5) or fewer persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Day care, family</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Family home, adult (A) and (D), pursuant to §23-22</td>
<td></td>
</tr>
</tbody>
</table>
**Residential Uses** | **Public and Semi Public Uses** | **Non-Residential Uses**
--- | --- | ---
- Family home, adult (B) and (C), pursuant to §23-22 and §23-52  
- Governmental facilities

(c) **Accessory uses.** Accessory uses in the R-1B district may include:

1. The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1B district, except for boats or boat trailers greater than twenty-six (26) feet in length.


3. Home occupation pursuant to §23-45.

4. Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-1B District.

(e) **Special uses.** Special uses in the R-1B district may include:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
</table>
| None |  | - Electronic towers pursuant to §23-66(h)(1)  
- Recycling collection point pursuant to §23-66(h)(14)  
- Urban farm pursuant to §23-66(h)(17) |
| Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40) foot setback from any lot line of the cemetery  
Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52  
Day care, group, when located and operated in an educational institution, place of worship or semi-public building  
Educational institution; business, technical or vocational school  
Educational institution; college or university  
Educational institution; elementary school, junior high school or high school  
Essential services  
Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure.  
Marina and/or boat landing.  
Place of worship  
Public parks or playgrounds  
Recreation facility, non-profit  
Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | |

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the R-1B district are as follows:

1. **Minimum lot area.** Six thousand (6,000) square feet.

2. **Maximum lot coverage.** Fifty percent (50%).
(3) **Minimum lot width.** Fifty (50) feet.

(4) **Minimum front yard.** Twenty (20) feet (twenty-five (25) foot minimum on arterial street).

(5) **Minimum rear yard.** Twenty-five (25) feet.

(6) **Minimum side yard.** Six (6) feet.

(7) **Maximum building height.** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

Sec. 23-94. R-1C central city residential district.

(a) **Purpose.** The R-1C district is intended to provide for the conservation and revitalization of residential areas located in the oldest parts of the City characterized predominately by single-family, detached dwellings on small sized lots of record while protecting residential neighborhoods from the intrusion of incompatible non-residential uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-1C district:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Dwelling, single-family, detached</td>
<td>• Community living arrangements service eight (8) or fewer persons, pursuant to §23-22 and §23-52</td>
<td>• None</td>
</tr>
<tr>
<td></td>
<td>• Day care, adult; serving five (5) or fewer persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Day care, family</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Family home, adult (A) and (D), pursuant to §23-22</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Governmental facilities</td>
<td></td>
</tr>
</tbody>
</table>

(c) **Accessory uses.** Accessory uses in the R-1C district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1C district, except for boats or boat trailers greater than twenty-six (26) feet in length.

(2) Bed and breakfast establishments pursuant to §23-48.

(3) Home occupation pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in Section 23-54 may be permitted in the R-1C District.

(e) **Special uses.** Special uses in the R-1C district may include:

<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>• Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52</td>
<td>• Electronic towers pursuant to §23-66(h)(1)</td>
</tr>
<tr>
<td></td>
<td>• Day care, group, when located and</td>
<td>• Recycling collection point pursuant to §23-66(h)(14)</td>
</tr>
</tbody>
</table>
Residential Uses | Public and Semi Public Uses | Non-Residential Uses
---|---|---
operated in an educational institution, place of worship or semi-public building
- Essential services
- Place of worship
- Public parks or playgrounds
- Recreation facility, non-profit
- Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the R-1C district are as follows:

1. **Minimum lot area:**
   
a. Four thousand (4,000) square feet for single-family detached dwellings.

   b. Six thousand (6,000) square feet for all other uses.

2. **Maximum lot coverage.** Seventy-five percent (75%).

3. **Minimum lot width.**
   
a. Forty (40) feet for single-family detached dwellings.

   b. Fifty (50) feet for all other uses.

4. **Minimum front yard.**
   
a. Ten (10) feet.

   b. Twenty (20) feet on an arterial street.

5. **Minimum rear yard.** Twenty-five (25) feet.

6. **Minimum side yard.**
   
a. Five (5) feet for single-family dwellings.

   b. Six (6) feet for all other uses.

7. **Maximum building height.** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 86-07, §1, 5-8-07; Ord 19-07, §1, 7-24-07; Ord 93-08, §1, 5-27-08; Ord 150-08, §1, 10-7-08; Ord 52-12, §1, 6-6-12; Ord 37-20, §1, 3-24-20)

Sec. 23-95. R-2 two-family district.

(a) **Purpose.** The R-2 district is intended to provide for and maintain residential areas characterized by single-family detached and two- (2-) family dwelling units. Increased densities and the introduction of two- (2-) family housing types are intended to provide for greater housing options for owners and renters while maintaining the basic qualities of a moderately dense residential neighborhood.

Supp. #92
(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-2 district:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Dwelling, single-family, detached</td>
<td>• Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52</td>
<td></td>
</tr>
<tr>
<td>• Dwelling, two-family (duplex)</td>
<td>• Day care, adult; serving five (5) or fewer persons</td>
<td>None</td>
</tr>
<tr>
<td>• Dwelling, zero lot line two-family</td>
<td>• Day care, family</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Family home, adult (A) and (D), pursuant to §23-22</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Governmental facilities</td>
<td></td>
</tr>
<tr>
<td>(c) <strong>Accessory uses.</strong> Accessory uses in the R-2 district may include:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-2 district, except for boats or boat trailers greater than twenty-six (26) feet in length.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Bed and breakfast establishments pursuant to §23-48.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) Home occupation pursuant to §23-45.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4) Fences and walls pursuant to §23-44.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) <strong>Temporary uses and structures.</strong> Temporary uses and structures specified in §23-54 may be permitted in the R-2 District.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) <strong>Special uses.</strong> Special uses in the R-2 district may include:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building.</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Educational institution; business, technical or vocational school</td>
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<td>• None</td>
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<td>• None</td>
<td>• Educational institution; elementary school, junior high school, or high school.</td>
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</tr>
<tr>
<td>• None</td>
<td>• Essential services</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Marina and/or boat landing</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Place of worship</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Public parks or playgrounds</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Recreation facility, non-profit</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Registered historic places open to the public and having retail space occupying</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Electronic towers pursuant to §23-66(h)(1)</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Recycling collection point pursuant to §23-66(h)(14)</td>
<td></td>
</tr>
<tr>
<td>• None</td>
<td>• Urban farms pursuant to §23-66(h)(17)</td>
<td></td>
</tr>
</tbody>
</table>
(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.**

(1) **Two-family dwellings (duplex) and other uses.**

   a. **Minimum lot area, Single-family dwelling (detached):** Six thousand (6,000) square feet.

   b. **Minimum lot area, Two-family dwellings (two-story duplex):** Seven thousand (7,000) square feet.

   c. **Minimum lot area, Two-family dwellings (single story duplex):** Nine thousand (9,000) square feet.

   d. **Minimum lot area, All other uses:** Seven thousand (7,000) square feet.

   e. **Minimum lot width, Single-family dwelling:** Fifty (50) feet.

   f. **Minimum lot width, All other uses:** (70 feet).

   g. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).

   h. **Minimum rear lot line setback:** Twenty-five (25) feet.

   i. **Minimum side lot line setback:** Six (6) feet.

   j. **Maximum lot coverage:** Sixty percent (60%).

   k. **Maximum building height:** Thirty-five (35) feet.

(2) **Zero lot line Two-family dwellings.**

   a. **Minimum lot area:** Three thousand (3,000) square feet per dwelling.

   b. **Minimum lot width:** Thirty (30) feet per dwelling.

   c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).

   d. **Minimum rear lot line setback:** Twenty-five (25) feet.

   e. **Minimum side lot line setback:** Zero (0) feet on one (1) side with a common wall provided that:

      i. The opposite side yard being a minimum of six (6) feet.

      ii. Patios and decks may have a zero setback from the zero lot line side yard setback.

      iii. Driveways may be separate or shared.

      iv. All state and local building code requirements shall be met for a zero-lot line two-family dwelling.

      v. Every zero lot line two-family dwelling constructed after March 24, 2020 shall be constructed with identical materials.

      vi. For the purpose of this subsection the term “identical materials” means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion,
vii. For the purpose of this subsection the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.

viii. Restrictive covenants shall be recorded at the county register or deeds, providing declarations and or bylaws similar to those typically recorded on a declaration of condominium.

1. If the driveway is shared, the maintenance and use standards for the shared driveway shall be part of said covenants.

2. Include a note that reads, “The parties hereto agree that the aesthetics of the units are important to the value of the building. Therefore, any subsequent repairs or maintenance performed by a unit owner to the exterior of their portion of the zero lot line two-family dwelling shall use at a minimum materials similar with those materials already incorporated into the building if identical materials are not incorporated into the building if identical materials are not incorporated into the repair or maintenance project. Each party may agree in writing to change the original color of the building so long as the color change applies to each unit. No party may change the color of the building so that it is different than the other unit.”

3. Said covenants shall provide for mediation of any and all disputes between owners of each dwelling unit and third party with regard to construction, use and maintenance of the real property.

4. Said covenants shall specifically state the City of Appleton and all approving authorities shall not be held responsible for same, and that said covenants shall insure to all heirs and assigns.

5. Proof of said recorded covenants or subsequently amended shall be submitted to the Community and Economic Development Department.

ix. Each dwelling unit shall have separate sewer and water lines and other separate utility lines entering each dwelling unit and also separate sump pump.

x. Easements shall be provided upon each lot as may be necessary for ingress and egress, water, sewer and all other utility services.

xi. The zero lot line parcel shall be divided by certified survey map or subdivision plat pursuant to Chapter 17 Subdivisions of the Municipal Code.

1. A restrictive endorsement shall be placed on the face of the CSM or plat that reads, “When zero lot line two-family dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, use, repair and maintenance shall be guarded against by private/restrictive covenants and deed restrictions, and no approving authority shall be held responsible for the enforcement of same.”

2. A copy of said Restrictive covenants shall be submitted with the initial application for certified survey map or subdivision plat approval.

f. **Maximum building height:** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.
Sec. 23-96. R-3 multifamily district.

(a) Purpose. The R-3 district is intended to provide for and maintain residential areas characterized by multiple family dwellings, while maintaining the basic qualities of a dense residential neighborhood, which may include other housing types and institutional and limited non-residential uses.

(b) Principal permitted uses. The following principal uses are permitted as of right in the R-3 district:

<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 facility or retirement home</td>
<td>Community living arrangements serving fifteen (15) or fewer persons, pursuant to §23-22 and §23-52</td>
<td>None</td>
</tr>
<tr>
<td>Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse</td>
<td>Day care, adult; serving five (5) or fewer persons</td>
<td></td>
</tr>
<tr>
<td>Dwelling, single-family, detached</td>
<td>Day care, family</td>
<td></td>
</tr>
<tr>
<td>Dwelling, two-family (duplex)</td>
<td>Family home, adult (A) and (D), pursuant to §23-22</td>
<td></td>
</tr>
<tr>
<td>Dwelling, zero lot line two-family</td>
<td>Family home, adult (B) and (C), pursuant to §23-22 and §23-52</td>
<td></td>
</tr>
<tr>
<td>Nursing or convalescent home</td>
<td>Governmental facilities</td>
<td></td>
</tr>
<tr>
<td>Residential care apartment complex</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(c) Accessory uses. Accessory uses in the R-3 district may include:

1. The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-3 district, except for boats or boat trailers greater than twenty-six (26) feet in length.


3. Home occupation pursuant to §23-45.

4. Fences and walls pursuant to §23-44.

(d) Temporary uses and structures. Temporary uses and structures specified in §23-54 may be permitted in the R-3 District.

(e) Special uses. Special uses in the R-3 district may include:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufactured and mobile home communities; pursuant to §23-66(h)(10) and Chapter 11 of the Municipal Code</td>
<td>Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40) foot setback from any lot line of the cemetery</td>
<td>Electronic towers pursuant to §23-66(h)(1)</td>
</tr>
<tr>
<td></td>
<td>Community living arrangements serving sixteen (16) or more persons, pursuant to §23-22 and §23-52</td>
<td>Recycling collection point pursuant to §23-66(h)(14)</td>
</tr>
<tr>
<td></td>
<td>Day care, group, when located and operated in an educational institution, place of worship or semi-public building</td>
<td>Shelter facility</td>
</tr>
<tr>
<td></td>
<td>Educational institution; business, technical or vocational school</td>
<td>Urban farms pursuant to §23-66(h)(17)</td>
</tr>
<tr>
<td></td>
<td>Educational institution; college or university</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Educational institution; elementary school, junior high school or high school</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Essential services</td>
<td></td>
</tr>
<tr>
<td>Residential Uses</td>
<td>Public and Semi Public Uses</td>
<td>Non-Residential Uses</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure</td>
<td>• Group home, adult</td>
<td>• Marina and/or boat landing</td>
</tr>
<tr>
<td>• Group housing</td>
<td>• Place of worship</td>
<td>• Public parks or playgrounds</td>
</tr>
<tr>
<td>• Public parks or playgrounds</td>
<td>• Recreation facility, non-profit</td>
<td>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</td>
</tr>
</tbody>
</table>

(f) **Site plan.** Prior to obtaining a building permit for any use except for one- (1-) and two- (2-) family dwellings on land in the R-3 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Development standards.**

1. **Single-Family Dwelling, Detached:**
   a. **Minimum lot area:** Six thousand (6,000) square feet.
   b. **Minimum lot width:** Fifty (50) feet.
   c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
   d. **Minimum rear lot line setback:** Twenty-five (25) feet.
   e. **Minimum side lot line setback:** Six (6) feet.
   f. **Maximum lot coverage:** Seventy percent (70%).
   g. **Maximum building height:** Thirty-five (35) feet.

2. **Two-family Dwellings (duplex):**
   a. **Minimum lot area, Two-family dwellings (two-story duplex):** Seven thousand (7,000) square feet.
   b. **Minimum lot area, Two-family dwellings (single story duplex):** Nine thousand (9,000) square feet.
   c. **Minimum lot width:** Seventy (70) feet.
   d. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
   e. **Minimum rear lot line setback:** Twenty-five (25) feet.
   f. **Minimum side lot line setback:** Six (6) feet.
   g. **Maximum lot coverage:** Seventy percent (70%).
   h. **Maximum building height:** Thirty-five (35) feet.

3. **Multi-family Dwellings and Other Uses:***
a. Minimum lot area, Multi-family dwellings: One thousand five-hundred (1,500) square feet per dwelling unit.

b. Minimum lot area, All other uses: Seven thousand (7,000) square feet.

c. Minimum lot width: Eighty (80) feet.

d. Minimum front lot line setback: Twenty (20) feet (twenty-five (25) feet minimum on arterial street).

e. Minimum rear lot line setback: Thirty-five (35) feet.

f. Minimum side lot line setback: Twenty (20) feet.

g. Minimum distance between multi-family buildings: Twelve (12) feet.

h. Maximum lot coverage: Seventy percent (70%).

i. Maximum height: Forty-five (45) feet.

(4) Zero Lot Line Two-family Dwelling:

a. Minimum lot area: Three thousand (3,000) square feet per dwelling.

b. Minimum lot width: Thirty (30) feet per dwelling.

c. Minimum front lot line setback: Twenty (20) feet (twenty-five (25) feet minimum on arterial street).

d. Minimum rear lot line setback: Twenty-five (25) feet.

e. Minimum side lot line setback: Zero (0) feet on one (1) side with a common wall provided that:

   i. The opposite side yard being a minimum of six (6) feet.

   ii. Patios and decks may have a zero setback from the zero lot line side yard setback.

   iii. Driveways may be separate or shared.

   iv. All state and local building code requirements shall be met for a zero-lot line two-family dwelling.

   v. Every zero lot line two-family dwelling constructed after March 24, 2020 shall be constructed with identical materials.

   vi. For the purpose of this subsection the term “identical materials” means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.

   vii. For the purpose of this subsection the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.

   viii. Restrictive covenants shall be recorded at the county register or deeds, providing declarations and or bylaws similar to those typically recorded on a declaration of condominium.
ZONING

1. If the driveway is shared, the maintenance and use standards for the shared driveway shall be part of said covenants.

2. Include a note that reads, “The parties hereto agree that the aesthetics of the units are important to the value of the building. Therefore, any subsequent repairs or maintenance performed by a unit owner to the exterior of their portion of the zero lot line two-family dwelling shall use at a minimum materials similar with those materials already incorporated into the building if identical materials are not incorporated into the repair or maintenance project. Each party may agree in writing to change the original color of the building so long as the color change applies to each unit. No party may change the color of the building so that it is different than the other unit.”

3. Said covenants shall provide for mediation of any and all disputes between owners of each dwelling unit and third party with regard to construction, use and maintenance of the real property.

4. Said covenants shall specifically state the City of Appleton and all approving authorities shall not be held responsible for same, and that said covenants shall insure to all heirs and assigns.

5. Proof of said recorded covenants or subsequently amended shall be submitted to the Community and Economic Development Department.

ix. Each dwelling unit shall have separate sewer and water lines and other separate utility lines entering each dwelling unit and also separate sump pump.

x. Easements shall be provided upon each lot as may be necessary for ingress and egress, water, sewer and all other utility services.

xi. The zero lot line parcel shall be divided by certified survey map or subdivision plat pursuant to Chapter 17 Subdivisions of the Municipal Code.

1. A restrictive endorsement shall be placed on the face of the CSM or plat that reads, “When zero lot line two-family dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, use, repair and maintenance shall be guarded against by private/restrictive covenants and deed restrictions, and no approving authority shall be held responsible for the enforcement of same.”

2. A copy of said Restrictive covenants shall be submitted with the initial application for certified survey map or subdivision plat approval.

f. **Maximum building height:** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 88-07, §1, 5-8-07; Ord 85-08, §1, 5-27-08; Ord 137-08, §1, 10-7-08; Ord 152-08, §1, 10-7-08; Ord 54-12, §1, 6-6-12; Ord 39-20, §1, 3-24-20)

Sec. 23-100. P-I public institutional district.

(a) **Purpose.** The P-I district is intended to provide for public and institutional uses and buildings, utilized by the community, and to provide open space standards where necessary for the protection of adjacent residential properties.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the P-I district:

<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 facility or retirement home</td>
<td>• Community living arrangements serving one (1) or more persons, pursuant to §23-22 and §23-52</td>
<td>• Multi-tenant buildings</td>
</tr>
<tr>
<td>• Nursing or convalescent home</td>
<td>• Educational institution; business, technical or vocational school</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Educational institution; college or university</td>
<td></td>
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<tr>
<td></td>
<td>• Educational institution; elementary school, junior high school, or high school</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Family home, adult (A) and (D), pursuant to §23-22</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Governmental facility</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Group housing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Hospital</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Marina and/or boat landing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Museum</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Place of worship</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Public parks or playgrounds</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Recreation facility, non-profit</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Multi-tenant buildings</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Essential services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure</td>
<td></td>
</tr>
</tbody>
</table>
| (c) **Accessory uses.** Accessory uses in the P-I district may include:

1. The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the P-I district.
2. Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the P-I District.

(e) **Special uses.** Special uses in the P-I district may include:

<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>• Cemetery, including a mausoleum, provided that a mausoleum shall have a forty-(40-)foot setback from any lot line of the cemetery</td>
<td>• Circus or carnival. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7)</td>
</tr>
<tr>
<td></td>
<td>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building</td>
<td>• Community garden</td>
</tr>
<tr>
<td></td>
<td>• Essential services</td>
<td>• Electronic towers pursuant to §23-66(h)(1)</td>
</tr>
<tr>
<td></td>
<td>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure</td>
<td>• Helicopter landing pads pursuant to §23-66(h)(9)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Parking garage</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Recycling collection point</td>
</tr>
</tbody>
</table>
ZONING

<table>
<thead>
<tr>
<th>Pursuant to §23-66(b)(14)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Recycling and waste recovery center pursuant to §23-66(b)(13)</td>
</tr>
<tr>
<td>• Shelter facility</td>
</tr>
<tr>
<td>• Tower or antenna for telecommunications services, pursuant to Article XIII</td>
</tr>
<tr>
<td>• Urban farms pursuant to §23-66(b)(17)</td>
</tr>
</tbody>
</table>

(f) **Site plan.** Prior to obtaining a building permit on any land in the P-I district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the P-I district are as follows:

1. **Minimum lot area.** None.

2. **Maximum lot coverage.** Seventy percent (70%).

3. **Minimum lot width.** None.

4. **Minimum front yard.** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.

5. **Minimum rear yard.** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.

6. **Minimum side yard.** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.

7. **Maximum building height.** Sixty (60) feet. (Ord 121-05, §1, 10-25-05; Ord 89-07, §1, 5-8-07; Ord 96-08, §1, 5-27-08; Ord 138-08, §1, 10-7-08; Ord 153-08, §1, 10-7-08; Ord 55-12, §1, 6-6-12; Ord 56-12, §1, 6-6-12)

*The P-I District Setback Example is located on the following page.*

*Remainder of page intentionally left blank*
P-I Setback Example

BUILDING SETBACKS

BUILDING IN A P-I DISTRICT AT 35' HEIGHT

BUILDING IN A P-I DISTRICT AT 45' HEIGHT
Sec. 23-101. NC nature conservancy district.

(a) **Purpose.** The purpose of the NC nature conservancy district is to:

1. Discourage development and disturbance to the natural environment in areas with unique features.
2. Give primary consideration to outdoor recreation and forestry pursuits.
3. Provide areas where native flora and fauna may prosper in a natural habitat.

(b) **Principal permitted uses.** The following uses are permitted within the NC nature conservancy district:

<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>• Bicycle or hiking trails</td>
<td>• None</td>
</tr>
<tr>
<td></td>
<td>• Dams, power stations, transmission lines</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Fishing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Harvesting of wild crops such as marsh hay, mushrooms, moss, berries, fruit trees and tree seeds</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Management of forestry and fish</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Public or private parks which provide passive recreation pursuits</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Water pumping and storage facilities</td>
<td></td>
</tr>
</tbody>
</table>

(c) **Accessory uses.** The accessory use, buildings and structures set forth in §23-43 may be permitted as of right in the NC district.

(d) **Prohibited uses and activities.** The following uses and activities shall be prohibited within the NC nature conservancy district:

2. Any placement of fill within the conservancy districts.

(e) **Development standards.** The space limits applicable in the NC nature conservancy district are as follows:

1. **Minimum lot area.** None.
2. **Minimum lot width.** None.
3. **Minimum front yard.** Twenty-five (25) feet.
4. **Minimum rear yard.** Twenty-five (25) feet.
5. **Minimum side yard.** Twelve (12) feet.
6. **Maximum building height.** Twenty-five (25) feet.

(f) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(g) **Tree cutting and shrubbery clearing prohibited.** Parcels lying within the NC nature conservancy district shall not be clear-cut of trees, shrubbery or underbrush. No more than ten percent (10%) of the natural vegetation shall be removed from a parcel in any one (1) given calendar year. Normal pruning, trimming, and shearing of vegetation; removal of dead, diseased, insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a forester shall be exempt from this restriction.

(Ord 138-06, §1, 11-21-06; Ord 97-08, §1, 5-27-08; Ord 11-14, §1, 4-8-14)

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ARTICLE VI. COMMERCIAL DISTRICTS

Sec. 23-111. C-O commercial office district

(a) **Purpose.** This district is intended to provide a buffer between commercial and residential areas by permitting professional or business offices that serve the general public. Stringent setback and landscaping standards required in this district will create a visual screen for adjacent properties.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-O district.

<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>• Clubs</td>
<td>• Multi-tenant building</td>
</tr>
<tr>
<td></td>
<td>• Educational institutions; business, technical or vocational school</td>
<td>• Offices</td>
</tr>
<tr>
<td></td>
<td>• Educational institutions; college or university</td>
<td>• Personal services</td>
</tr>
<tr>
<td></td>
<td>• Governmental facilities</td>
<td>• Professional services</td>
</tr>
<tr>
<td></td>
<td>• Museums</td>
<td>• Veterinary clinics</td>
</tr>
<tr>
<td></td>
<td>• Places of worship</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Public parks or playgrounds</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Multi-tenant building</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Offices</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Personal services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Professional services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Veterinary clinics</td>
<td></td>
</tr>
</tbody>
</table>

(c) **Accessory uses.** Accessory uses in the C-O district may include:

1. The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-O district.
2. Residential dwellings at least ten (10) feet above the street grade of the building.
3. Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
4. Drive through facility pursuant to §23-49.
5. Home occupation pursuant to §23-45.
6. Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-O District.

(e) **Special uses.** Special uses in the C-O district may include:

<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>• Electronic towers pursuant to §23-66(h)(1)</td>
</tr>
<tr>
<td></td>
<td>• Essential services</td>
<td>• Helicopter landing pads pursuant to §23-66(h)(9)</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>• Parking garages</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>• Recycling collection point pursuant to §23-66(h)(14)</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>• Tower or antenna for telecommunication services, pursuant to Article XIII</td>
</tr>
</tbody>
</table>

(f) **Site plan.** Prior to obtaining a building permit on any land in the C-O district, a site plan shall be required in accordance with §23-570, Site plan review and approval.
(g) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the C-O district are as follows:

1. **Minimum lot area.** Nine thousand (9,000) square feet.
2. **Maximum lot coverage.** Sixty percent (60%).
3. **Minimum lot width.** Eighty (80) feet.
4. **Minimum front yard.** Twenty (20) feet.
5. **Minimum rear yard:**
   a. Twenty-five (25) feet.
   b. Forty (40) feet if abutting a residentially-zoned district.
6. **Minimum side yard:**
   a. Ten (10) feet.
   b. Forty (40) feet if abutting a residentially-zoned district.
7. **Maximum building height.** Thirty-five (35) feet.

(Ord 121-05, §1, 10-25-05; Ord 154-08, §1, 10-7-08)

**Sec. 23-112. C-1 neighborhood mixed use district.**

(a) **Purpose.** The C-1 district is intended to provide for mixed use areas, including a range of commercial and denser residential uses. Development is intended to be pedestrian-oriented, with businesses and services that are part of the fabric of the neighborhood and allow residents to meet daily needs on foot, bicycle, and public transit. Development standards provide added flexibility to encourage redevelopment along commercial corridors, without being detrimental to established residential neighborhoods.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-1 district.

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Dwelling, multi-family, or three (3) or more units, apartment building, or townhouse</td>
<td>• Clubs</td>
<td>• Commercial entertainment; excluding sexually-oriented establishments</td>
</tr>
<tr>
<td></td>
<td>• Day care, group</td>
<td>• Hotel or motels</td>
</tr>
<tr>
<td></td>
<td>• Governmental facilities</td>
<td>• Multi-tenant building</td>
</tr>
<tr>
<td></td>
<td>• Museums</td>
<td>• Offices</td>
</tr>
<tr>
<td></td>
<td>• Places of worship</td>
<td>• Painting/Craft studio without alcohol sales</td>
</tr>
<tr>
<td></td>
<td>• Public parks or playgrounds</td>
<td>• Personal services</td>
</tr>
<tr>
<td></td>
<td>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</td>
<td>• Printing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Professional services</td>
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<td></td>
<td></td>
<td>• Restaurants (without alcohol)</td>
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<td></td>
<td></td>
<td>• Restaurants, fast foods</td>
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<tr>
<td></td>
<td></td>
<td>• Retail businesses</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Shopping centers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Urban farms pursuant to §23-66(h)(17)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Veterinarian clinics, with all activity within enclosed buildings and with no</td>
</tr>
</tbody>
</table>
ZONING

<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 arcade</td>
</tr>
<tr>
<td></td>
<td>• Essential services</td>
<td>• Bar or Tavern pursuant to §23-66(h)(6)</td>
</tr>
<tr>
<td></td>
<td>• Recreation facilities, non-profit</td>
<td>• Craft-Distillery pursuant to §23-66(h)(19)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Electronic towers pursuant to §23-66(h)(1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Manufacturing, custom pursuant to §23-66(h)(16)</td>
</tr>
<tr>
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<td>• Microbrewery/Brewpub pursuant to §23-66(h)(19)</td>
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<td></td>
<td>• Outdoor commercial entertainment pursuant to §23-66(h)(11)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Painting/Craft studio with alcohol pursuant to §23-66(h)(6)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Parking garages</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Recycling collection points pursuant to §23-66(h)(14)</td>
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<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>• Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Tower or antenna for telecommunication services pursuant to Article XIII</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Winery pursuant to §23-66(h)(21)</td>
</tr>
</tbody>
</table>

(c) **Accessory uses.** Accessory uses in the C-1 district may include:

1. The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-1 district; however, new or expanded driveways, parking lots, and loading areas shall not be located between the principal building and the front lot line.

2. Residential dwellings at least ten (10) feet above the street grade of the building.

3. Home occupation pursuant to §23-45.

4. Outdoor storage and display pursuant to §23-46.

5. Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-1 district.

(e) **Special uses.** Special uses in the C-1 district may include:

(f) **Site plan.** Prior to obtaining a building permit on any land in the C-1 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards; however, the number of off-street parking and loading spaces required are reduced by fifty percent (50%) for uses in the C-1 district. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(h) **Development standards.** The space limits applicable in the C-1 district are as follows:

Supp. #92
(1) **Minimum lot area.** Six thousand (6,000) square feet.

(2) **Maximum lot coverage.** Ninety percent (90%).

(3) **Minimum lot width.** Forty (40) feet.

(4) **Minimum front yard.** None.

(5) **Minimum rear yard:**
   a. Twenty (20) feet.

(6) **Minimum side yard:**
   a. None.
   b. Ten (10) feet if abutting a residentially zoned district.

(7) **Maximum building height.** Sixty (60) feet.

(i) **District location.** The C-1 district shall be utilized in areas identified with a future Mixed Use designation on the Comprehensive Plan Future Land Use Map.

Sec. 23-113. C-2 general commercial district.

(a) **Purpose.** This district is intended to provide for businesses which serve city and regional markets; provide goods and services to other businesses, as well as consumers, provide services to automobiles and serve the traveling public.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-2 district:

<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></td>
<td>• Educational institutions; business, technical or vocational school</td>
<td>• Drive through facilities pursuant to §23-49</td>
</tr>
<tr>
<td></td>
<td>• Educational institutions; college or university</td>
<td>• Greenhouses or greenhouse nurseries</td>
</tr>
<tr>
<td></td>
<td>• Governmental facilities</td>
<td>• Hotel or motels</td>
</tr>
<tr>
<td></td>
<td>• Hospitals</td>
<td>• Manufacturing, custom pursuant to §23-66(h)(16)</td>
</tr>
<tr>
<td></td>
<td>• Marina or boat landings</td>
<td>• Multi-tenant building</td>
</tr>
<tr>
<td></td>
<td>• Museums</td>
<td>• Offices</td>
</tr>
<tr>
<td></td>
<td>• Places of worship</td>
<td>• Painting/Craft studio without alcohol sales</td>
</tr>
<tr>
<td></td>
<td>• Public parks or playground</td>
<td>• Parking lots</td>
</tr>
<tr>
<td></td>
<td>• Recreation facilities; non-profit</td>
<td>• Personal services</td>
</tr>
<tr>
<td></td>
<td>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</td>
<td>• Printing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Professional services</td>
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<tr>
<td></td>
<td></td>
<td>• Restaurants (without alcohol)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Restaurants, fast food</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Retail businesses</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Shopping centers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Towing businesses pursuant to §23-66(h)(15)</td>
</tr>
</tbody>
</table>
| | | • Urban farms pursuant to 23-
(c) **Accessory uses.** Accessory uses in the C-2 district may include:

1. The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-2 district.
2. Residential dwellings at least ten (10) feet above the street grade of the building.
3. Home occupation pursuant to §23-45.
4. Outdoor storage and display pursuant to §23-46.
5. Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-2 District.

(e) **Special uses.** Special uses in the C-2 district may include:

<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>
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<td>Body repair and/or paint shops pursuant to §23-66(h)(4)</td>
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<td></td>
<td>Bus terminals</td>
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<td>Car washes</td>
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<tr>
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<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>Craft-Distillery pursuant to §23-66(h)(19)</td>
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<td></td>
<td></td>
<td>Electronic towers pursuant to §23-66(h)(1)</td>
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<td>Freight distribution and/or moving centers</td>
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<tr>
<td></td>
<td></td>
<td>Gasoline sales pursuant to §23-66(h)(8)</td>
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<tr>
<td></td>
<td></td>
<td>Helicopter landing pads pursuant to §23-66(h)(9)</td>
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<td></td>
<td>Indoor kennels</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landscape business</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Manufacturing, light</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Microbrewery/Brewpub pursuant to §23-66(h)(19)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mobile home sales lots</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Outdoor commercial entertainment</td>
</tr>
<tr>
<td>Residential Uses</td>
<td>Public and Semi Public Uses</td>
<td>Non-Residential Uses</td>
</tr>
<tr>
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<tr>
<td></td>
<td></td>
<td>pursuant to §23-66(h)(11)</td>
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<tr>
<td></td>
<td></td>
<td>Painting/Craft studio with alcohol sales pursuant to §23-66(11)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Parking garages</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recycling collection points pursuant to §23-66(h)(14)</td>
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<tr>
<td></td>
<td></td>
<td>Recycling and waste recovery centers pursuant to §23-66(h)(13)</td>
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<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>
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<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>Tasting rooms pursuant to §23-66(H)(19, 20, 21, or 21)</td>
</tr>
<tr>
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<td></td>
<td>Towers or antennas for wireless telecommunication services, pursuant to Article XIII.</td>
</tr>
<tr>
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<td></td>
<td>Wholesale facilities</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Winery pursuant to §23-66(h)(21)</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; Ord 41-20, §1, 3-24-20; Ord 42-20, §1, 3-24-20)

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 (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</td>
<td>• Educational institutions; college or university</td>
<td>• Drive through facilities pursuant to §23-49</td>
</tr>
<tr>
<td></td>
<td>• Governmental facilities</td>
<td>• Hotel or motels</td>
</tr>
<tr>
<td></td>
<td>• Museums</td>
<td>• Multi-tenant building</td>
</tr>
<tr>
<td></td>
<td>• Places of worship</td>
<td>• Offices</td>
</tr>
<tr>
<td></td>
<td>• Public park or playgrounds</td>
<td>• Painting/Craft studio without alcohol sales</td>
</tr>
<tr>
<td></td>
<td>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</td>
<td>• Personal services</td>
</tr>
</tbody>
</table>

(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(h)(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>
</tr>
<tr>
<td></td>
<td></td>
<td>• Body repair and/or paint shop pursuant to §23-66(h)(4)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Bus terminal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Craft-Distillery pursuant to §23-66(h)(19)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Electronic towers pursuant to §23-66(h)(1)</td>
</tr>
</tbody>
</table>
| | | • Gasoline sales pursuant to §23-
(f) **Site plan.** Prior to obtaining a building permit on any land in the CBD, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and loading requirements.** Provision for off-street parking and loading spaces are not required for uses in the CBD.

(h) **Landscape standards.** Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(i) **Development standards.** The space limits applicable in the CBD are as follows:

1. **Minimum lot area.** Two thousand four hundred (2,400) square feet.
2. **Maximum lot coverage.** One hundred percent (100%).
3. **Minimum lot width.** Twenty (20) feet.
4. **Minimum front yard.** None.
5. **Minimum rear yard.**
   a. None.
   b. Ten (10) feet when abutting a residentially-zoned district.
6. **Minimum side yard.**
   a. None.
   b. Ten (10) feet when abutting a residentially-zoned district.
(7) **Maximum building height.** Two hundred (200) feet.

(Ord 121-05, §1, 10-25-05; Ord 101-08, §1, 5-27-08; Ord 140-08, §1, 10-7-08; Ord 157-08, §1, 10-7-08; Ord 59-12, §1, 6-6-12; Ord 36-18, §1, 4-10-18; Ord 43-20, §1, 3-24-20)

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:

<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>• None</td>
<td>• Parking garage</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Parking lot</td>
</tr>
</tbody>
</table>

(c) **Accessory uses.** Accessory uses, buildings and structures permitted in the parking district include:

1. Earthen berm.
2. Fences and walls pursuant to §23-44.
3. Private drives.
4. Refuse containers, which shall be screened from view from adjacent properties and the public street pursuant to §23-43 and §23-47.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the P District.

(e) **Special uses.** Special uses permitted in the parking district include:

<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>• Essential services</td>
<td>• None</td>
</tr>
</tbody>
</table>

(f) **Lot area and width.** Individual lots in the P district shall contain sufficient area for parking spaces, aisles and required screening. There is no minimum lot area and width.

(g) **Site plan.** Prior to obtaining a building permit for a parking lot in the P district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(h) **Parking and landscape standards.** Off-street parking requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(i) **Development standards.**

1. **Maximum lot coverage.** Ninety percent (90%).

(Ord 121-05, §1, 10-25-05; Ord 102-08, §1, 5-27-08; Ord 158-08, §1, 10-7-08)

ARTICLE VII. INDUSTRIAL DISTRICTS

Sec. 23-131. M-1 industrial park district.

(a) **Purpose.** The M-1 district is intended for clean, low environmental impact industrial uses that are compatible with neighboring residential, office and commercial districts through limiting outdoor storage and providing adequate landscaping and screening for buildings, structures and off-street parking areas.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the M-1 district, subject to any contracts, agreements, covenants, restrictions and leases the City maintains on City-owned industrial properties.

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
</table>
| • None | • Governmental facilities  
• Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building | • Agriculture  
• Brewery pursuant to §23-66(h)(20)  
• Commercial entertainment  
• Community garden  
• Craft-Distillery pursuant to §23-66(h)(19)  
• Distillery pursuant to §23-66(h)(20)  
• Freight distribution or moving centers  
• Manufacturing, light  
• Microbrewery/Brewpub pursuant to §23-66(h)(19)  
• Offices  
• Multi-tenant buildings  
• Printing  
• Research laboratory or testing facilities  
• Urban farms pursuant to §23-66(h)(17)  
• Warehouses  
• Wholesale facilities  
• Winery pursuant to §23-66(h)(21) |

(c) **Accessory uses.** Accessory uses in the M-1 district may include:

1. The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the M-1 district.

2. Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

3. Drive through facility pursuant to §23-49.

4. Personal service occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

5. Outdoor storage pursuant to §23-46.

6. Showrooms and incidental retail sales provided as follows, unless otherwise stated in this chapter:
   a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
   b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
   c. The industrial character of the property is maintained.

7. Fences and walls pursuant to §23-44.
ZONING

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the M-1 District.

(e) **Special uses.** Special uses in the M-1 district may include:

<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>• Essential services</td>
<td>• Electronic towers pursuant to §23-66(h)(1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Helicopter landing pads pursuant to §23-66(h)(9)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Manufacturing, heavy</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>• Recycling centers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Recycling collection points pursuant to §23-66(h)(14)</td>
</tr>
<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>• Sexually-oriented establishments pursuant to Article XII</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Towers or antennas for wireless telecommunication services pursuant to Article XIII</td>
</tr>
</tbody>
</table>

(f) **Site plan.** Prior to obtaining a building permit on any land in the M-1 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking, loading and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the M-1 district are as follows:

1. **Minimum lot area.** One (1) acre.

2. **Maximum lot coverage.** Ninety percent (90%).

3. **Minimum lot width.** One hundred fifty (150) feet.

4. **Minimum front yard.** Forty (40) feet.

5. **Minimum rear yard:**
   a. Twenty-five (25) feet.
   b. Fifty (50) feet if abutting a residentially-zoned district.

6. **Minimum side yard:**
   a. Twenty-five (25) feet.
   b. Fifty (50) feet if abutting a residentially-zoned district.

7. **Maximum building height.** Sixty (60) feet.
(Ord 121-05, §1, 10-25-05; Ord 103-08, §1, 5-27-08; Ord 159-08, §1, 10-7-08; Ord 31-11, §1, 1-25-11; Ord 158-11, §1, 7-26-11; Ord 209-11, §1, 9-27-11; Ord 60-12, §1, 6-6-12; Ord 61-12, §1, 6-6-12; Ord 45-20, §1, 3-24-20; Ord 46-20, §1, 3-24-20)
Sec. 23-132. M-2 general industrial district

(a) **Purpose.** The M-2 district is intended to preserve and secure areas already established with industrial type or related uses or for new uses that meet the purposes of this district. The M-2 district is also intended to apply standards for existing uses that will minimize their effect on any adjacent residential or commercial land uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the M-2 district:

<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>Governmental facilities</td>
<td>Automobile maintenance shops</td>
</tr>
<tr>
<td></td>
<td>Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building</td>
<td>Body repair and/or paint shops pursuant to §23-66(h)(4)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Brewery pursuant to §23-66(h)(20)</td>
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<tr>
<td></td>
<td></td>
<td>Bus terminals</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial entertainment</td>
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<td></td>
<td></td>
<td>Commercial truck body repair or paint shops</td>
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<tr>
<td></td>
<td></td>
<td>Commercial truck maintenance shops</td>
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<tr>
<td></td>
<td></td>
<td>Community garden</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Craft-Distillery pursuant to §23-66(h)(19)</td>
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<tr>
<td></td>
<td></td>
<td>Distillery pursuant to §23-66(h)(20)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Freight distribution or moving centers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landscape businesses</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Manufacturing, light</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Microbrewery/Brewpub pursuant to §23-66(h)(19)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Multi-tenant buildings</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Offices</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>Printing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Research laboratories or testing facilities</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Towing businesses pursuant to §23-66(h)(15)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Truck or heavy equipment sales or rental</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Urban farms pursuant to §23-66(h)(17)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Warehouses</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Wholesale facilities</td>
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<tr>
<td></td>
<td></td>
<td>Winery pursuant to §23-66(h)(21)</td>
</tr>
</tbody>
</table>

(c) **Accessory uses.** Accessory uses in the M-2 district may include:

1. The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the M-2 district.

2. Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

3. Drive through facility pursuant to §23-49.

4. Outdoor display pursuant to §23-46.

5. Outdoor storage pursuant to §23-46.
(6) Personal service; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

(7) Showrooms and incidental retail sales provided as follows, unless otherwise stated in this chapter:
   a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
   b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
   c. The industrial character of the property is maintained.

(8) Fences and walls pursuant to §23-44.
   
   (d) Temporary uses and structures. Temporary uses and structures specified in §23-54 may be permitted in the M-2 District.

   (e) Special uses. Special uses in the M-2 district may include:

<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>Essential services</td>
<td>Asphalt plant</td>
</tr>
<tr>
<td></td>
<td>Marina or boat landing</td>
<td>Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5)</td>
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<tr>
<td></td>
<td></td>
<td>Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles only pursuant to §23-66(h)(5)</td>
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<td></td>
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<td>Bulk flammable or combustible liquid storage or distribution facility</td>
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<td>Concrete mixing</td>
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<td></td>
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<td>Electronic towers pursuant to §23-66(h)(1)</td>
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<td></td>
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<td>Gasoline sales, pursuant to §23-66(h)(8)</td>
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<td>Manufacturing, heavy</td>
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<td></td>
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<td>Indoor or outdoor kennel pursuant to §23-66(h)(12)</td>
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<tr>
<td></td>
<td></td>
<td>Mobile home sales and display lot</td>
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<tr>
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<td></td>
<td>Parking garage</td>
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<td></td>
<td></td>
<td>Parking lot</td>
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<tr>
<td></td>
<td></td>
<td>Recycling collection point pursuant to §23-66(h)(14)</td>
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<tr>
<td></td>
<td></td>
<td>Recycling and waste recovery center pursuant to §23-66(h)(13)</td>
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<td></td>
<td></td>
<td>Salvage yard or junk facility</td>
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<tr>
<td></td>
<td></td>
<td>Sexually-oriented establishments pursuant to Article XII</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Towed vehicle storage</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Towers or antennas for wireless telecommunication services pursuant to Article XIII</td>
</tr>
</tbody>
</table>

   (f) Site plan. Prior to obtaining a building permit on any land in the M-2 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

   (g) Parking, loading, and landscape standards. Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

   (h) Development standards. The space limits applicable in the M-2 district are as follows:
(1) **Minimum lot area.** Eight thousand (8,000) square feet.

(2) **Maximum lot coverage.** Ninety percent (90%).

(3) **Minimum lot width.** Fifty (50) feet.

(4) **Minimum front yard.** None.

(5) **Minimum rear yard.** None; Fifty (50) feet if abutting a residentially zoned district.

(6) **Minimum side yard.** None; Fifty (50) feet if abutting a residentially zoned district.

(7) **Maximum building height.** Eighty (80) feet.

(Ord 121-05, §1, 10-25-05; Ord 160-08, §1, 10-7-08; Ord 159-11, §1, 7-26-11; Ord 210-11, §1, 9-27-11; Ord 62-12, §1, 6-6-12; Ord 63-12, §1, 6-6-12; Ord 73-13, §1, 8-13-13; Ord 47-20, §1, 3-24-20)

**Secs. 23-133 – 23-149.** Reserved.
ARTICLE VIII. OVERLAY DISTRICTS

Sec. 23-150. Overlay districts purpose.

The Appleton overlay districts are intended to provide supplemental regulations or standards pertaining to specific areas of the City, wherever these are located, in addition to, but not necessarily more restrictive than the “base” or underlying zoning district regulations applicable within a designated area. Whenever there is a conflict between the regulations of a base zoning district and those of an overlay district, the overlay district regulations shall supercede the base district regulations.

Sec. 23-151. PD planned development overlay district.

(a) Purpose. The purpose of this district is to encourage innovative design and a mix of uses in areas of Appleton where such development could positively contribute to the physical appearance and function of land and development.

(b) Designation of planned development overlay district. The PD overlay district shall be designated by the Common Council pursuant to the provisions of §23-65, Zoning amendments, and shall be shown as an overlay to the underlying districts by the designation of PD on the City of Appleton Official Zoning Map.

In determining the proper location for such an overlay within the City, the City shall consider that these provisions are intended to accommodate developments that involve one (1) or more uses that may be located in one (1) or more zoning districts and provide the following:

(1) That the application of this overlay district would provide a choice in the type of environment available to the public by allowing development that would not be possible under the strict application of other sections of this chapter.

(2) That the application of this PD overlay district would encourage development and/or permanent reservation of open space, recreational areas and facilities.

(3) That the application of this PD overlay district would accommodate a land use plan that permits preservation of green space, natural vegetation, topographic and geologic features and historic resources.

(4) That the application of this PD overlay district would allow a creative approach to the use of land and related physical facilities which results in better urban design, higher quality construction and the provision of aesthetic amenities.

(5) That the application of this PD overlay district would allow the efficient use of land, so as to promote economies in the provision of utilities, streets, schools, public grounds and buildings and other facilities.

(6) That the application of this PD overlay district would allow innovations in development so that the needs and demands of the population may be met by a greater variety in type, design and layout of buildings, and by conservation and more efficient use of open space ancillary to said buildings, all in a manner so as to be consistent with the character of the zoning district over which the PD overlay district is to be located.

(7) That the application of this PD overlay district would allow a land use which promotes the public health, safety, comfort, morals and welfare.

(c) Minimum size of district. No district shall be established unless it contains the minimum area specified in this section and has at least two hundred (200) feet of frontage or City approved private road access.

(1) The minimum gross area required for a PD overlay district is as follows:

a. Two (2) acres where the overlay is placed upon base, single-family residential districts.

b. Two (2) acres where the overlay is placed upon base, multi-family residential districts.

c. One (1) acre where the overlay is placed upon base, nonresidential districts.
(2) Applications for a PD overlay district on sites containing less than the required acreage listed above, but not less than the underlying zoning district requirements, may be approved upon proof by the owner that the development is in the public interest and that one (1) or more of the following conditions exist:

a. The property contains steep topography or other unusual physical features which necessitates substantial deviation from the regulations otherwise applicable, in order to ensure a safe, efficient and attractive development.

b. The property is adjacent to an existing PD overlay district and will contribute to the maintenance of amenities and values of the neighboring district.

c. The proposal involves the redevelopment of an existing area or makes use of an infill site that could not be reasonably developed under conventional zoning requirements.

d. The property lends itself to creative design that will enhance quality of life in the proposed development.

(d) Designation of permanent common open space. No Development Plan for a PD overlay district shall be approved, unless the plan provides for permanent, landscaped, open space equivalent to the following by type of PD overlay district:

<table>
<thead>
<tr>
<th>Percent of gross acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Planned residential development 35%</td>
</tr>
<tr>
<td>b. Planned commercial development 10%</td>
</tr>
<tr>
<td>c. Planned office development 25%</td>
</tr>
<tr>
<td>d. Planned mixed development 30%</td>
</tr>
</tbody>
</table>

(1) Open space may either be passive or active in nature and shall fully complement the proposed development. Such open space may take the form of required yards, parks, playgrounds, landscaped green space, nature walks and natural areas.

(2) Land donated for any public purpose, which is accepted by the City, may be credited towards the open space requirement at the discretion of the Common Council.

(3) Where a planned development is to be developed in phases, a portion of the required open space shall be provided in each phase. Maintenance of the open space shall be provided for in the planned development’s restrictive covenants and/or the Implementation Plan Document (IPD) recorded as part of the project.

(4) Open space shall be either adjacent to, or readily accessible by, all properties within the PD overlay district. Furthermore, open space shall be situated in such a way that it may be linked up with other open spaces adjacent to the proposed PD overlay district.

(e) Area, height and yard requirements. Lot area, width, building height, yard, density and similar requirements shall be provided in accordance with the underlying zoning district unless based upon performance standards specific to the proposed uses or structures as they relate to the total concept of the PD overlay district as identified in §23-151(m), Procedure for approval of a Development Plan within the district, of this section.

(f) Density, height, yard and other regulation exceptions. In the case of any PD overlay district, the Plan Commission may recommend and the Common Council may authorize, exceptions to the applicable bulk, height, yard and other regulations of this chapter within the boundaries of such PD overlay district, provided that the Plan Commission shall find that such exception shall be for the purpose of promoting an integrated Development Plan as beneficial to the tenants or occupants of such development, as well as the neighboring properties, than would be obtained under the bulk regulations of this chapter for buildings developed on separate zoning lots.

(g) Principal permitted uses.

(1) Uses listed as permitted in the underlying zoning district(s).
(2) Uses as approved or as recommended by the Plan Commission and Common Council as identified in §23-151(h), Use regulation exceptions.

(3) Uses listed as special uses in the underlying zoning district(s) may be listed as permitted uses in the PD overlay district and shall be reviewed and approved, approved with conditions or denied as a part of the PD overlay district process.

(h) Use regulation exceptions. The Plan Commission may recommend and the Common Council may authorize that there will be allowed in part of the area of a proposed PD overlay district, specified uses not permitted by the use regulations of the underlying zoning districts in which the development is located, provided that the Plan Commission shall find:

(1) That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose and character of the PD overlay district.

(2) That the uses permitted by such exception are not of such nature or so located as to exercise a detrimental influence on the neighborhoods surrounding the PD overlay district, or upon the internal character of any part of, or all of the PD overlay district, itself.

(3) That the use exceptions so allowed are listed in the Implementation Plan Document (IPD), of which a recorded copy of the Implementation Plan Document (IPD), shall be filed in the office of the Community and Economic Development Director.

(4) That any excepted use which is listed as a special use in any district, unless such use is permitted as of right in the underlying zoning district, shall require a two-thirds (2/3) vote of the Common Council.

(i) Other uses.

(1) Accessory uses. Uses listed as accessory uses in the underlying zoning district(s) are permitted as of right in the PD overlay district.

(2) Temporary uses and structures. Uses listed as temporary uses and structures in the underlying district(s) may be permitted in the PD overlay district.

(j) Signs. Sign regulations applicable in the PD overlay district are set forth in Article XIV, Signs.

(k) Outdoor lighting, parking and landscape standards. All standards of the following apply: outdoor lighting requirements as set forth in §23-53, Outdoor lighting. Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(l) Period of validity and expiration of plans. A PD overlay district designation remains on PD parcels even if there is no approved Development Plan and/or Implementation Plan Document (IPD), or if the Development Plan and Implementation Plan Document (IPD) has expired or the Development Plan and Implementation Plan Document (IPD), has been made invalid. Any future development requires a submittal of a Development Plan and Implementation Plan Document (IPD) and its approval or a request to rezone the property.

(1) Once a Development Plan and/or Implementation Plan Document (IPD) has expired for any portion of the planned development overlay district, no development shall occur within the expired portions of the planned district until:

a. A new Development Plan and Implementation Plan Document (IPD) is resubmitted and is recommended for approval by the Plan Commission and approved by Common Council; and

(2) A one (1) year extension of an approved Development Plan and Implementation Plan Document (IPD) may be granted by Common Council for good cause shown by the applicant.
(m) Procedure for approval of a Development Plan within the district. No development shall be permitted within this district unless it is submitted, reviewed and approved subject to the following procedures:

All required improvements, construction standards, design standards and all other engineering standards contained within the Municipal Code shall be complied with, except where specifically varied through the provisions of this section of the chapter.

Applications shall be made on forms provided by the City and shall be accompanied by the required plans and documents. The application and all requirements shall be reviewed for completeness by the Community and Economic Development Director. The steps in the procedure are as follows:

(1) Step 1. Pre-application conference.

a. The purpose of the pre-application conference is to provide two-way communication between the applicant, the Community and Economic Development Director and City staff regarding the legal, planning, engineering and storm water management aspects of the potential development. Accordingly, the applicant shall submit conceptual plans and other pertinent information to the Community and Economic Development Director for review and discussion by other city departments prior to submittal of a PD overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD). The conceptual plan shall include the entire area of the intended PD, even if the PD overlay district is to be developed in phases.

b. A pre-application conference review shall consider: success in achieving the purposes of the PD overlay district ordinances; adequacy of public and private services and facilities; ability to conform with all applicable codes and ordinances; utilization of commonly accepted principles of good site planning; and consistency with the comprehensive plan.

c. Submittal requirements for the PD overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be reviewed as part of the pre-application conference. A submittal item may be waived as part of this review if determined as not needed, already known or needed at a future review process.

d. The aforementioned requirements may be waived at the discretion of the Community and Economic Development Director.

(2) Step 2. Application, Development Plan and Implementation Plan Document (IPD). The Development Plan, complete application and fee, and Implementation Plan Document (IPD) for the PD overlay district shall be submitted by the applicant to the Community and Economic Development Director who, after determining the application to be complete, will file the Development Plan, complete application and fee and Implementation Plan Document (IPD) for the PD overlay district. The application and fee shall be filed with the City Clerk and the application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be forwarded to the Plan Commission for their consideration, informal hearing, and recommendation.

The required procedure for consideration and approval of the PD overlay district shall be:

a. Submission of materials. The applicant shall prepare and submit the following plans and documents:

1. All information listed in §23-151(n), Specific contents of Development Plans.

2. Written application and application fee for approval of a PD overlay district to be made on forms and in the manner prescribed by the City.

3. A completed copy of the Implementation Plan Document (IPD) as prescribed by the City shall be submitted to the Community and Economic Development Director on a diskette or by electronic mail. The Implementation Plan Document (IPD) functions to inform all whom deal with the PD overlay district of the restrictions placed upon the land and acts as a customized zoning district control device.
4. A statement of conformity with City's other relevant ordinances along with a list of any requested variations from these ordinances.

b. Development Plan and Implementation Plan Document (IPD) review. The Community and Economic Development Director shall coordinate a review of the Development Plan and Implementation Plan Document (IPD) to include review by all relevant departments and submit written findings and recommendations to the Plan Commission for an informal hearing.

c. Informal hearing. The Plan Commission shall hold an informal hearing on each application for approval of a PD overlay district including the Development Plan and Implementation Plan Document (IPD) in accordance with §23-65(d), Map amendments, of this chapter.

d. Plan Commission findings. Following the informal hearing, the Plan Commission shall make its findings and recommendations and send a written report to the Common Council that shall include findings of fact upon which its recommendations are based. Such findings and recommendations shall include a recommendation for approval, disapproval or approval with modifications. This report to the Common Council must be submitted within thirty (30) days after the last session of the informal hearing of the Plan Commission or the Plan Commission must indicate to the Common Council, in writing, why such report cannot be rendered within that time period.

e. Common Council action. The Common Council shall hold a public hearing and act upon the recommendation within forty-five (45) days after receipt of the Plan Commission’s report. The Common Council may approve, approve with modifications, refer back to the Plan Commission, disapprove the plan or provide written explanation to the petitioner on why an extension is required for Common Council action. The time period for action shall be exclusive of any time extensions or continuances requested by the petitioner.

f. Period of validity.

1. The Development Plan and Implementation Plan Document (IPD), as approved by the Common Council, shall remain valid for a period of one (1) year during which time building permits for a substantial portion of development occurring within the approved first phase of the Development Plan or, if the Development Plan does not consist of development phases, the complete Development Plan must be applied for and received by the applicant. The one (1) year period shall begin on the date the Common Council approves the PD overlay district, Development Plan and Implementation Plan Document (IPD).

   a. For the purposes of this section, “substantial portion of development” shall mean that at least thirty percent (30%) of the building permits required for the overall project or phase, if in phases, have been approved for and approved.

2. The Common Council may extend this period upon recommendation of the Plan Commission. If the applicant does not apply for and receive a building permit within one (1) year from the date of Common Council approved of the PD overlay district, Development Plan and Implementation Plan Document (IPD), the Development Plan and Implementation Plan Document (IPD) will constitute abandonment of the PD overlay district and related approvals, and any assumed development rights over that allowed through the underlying zoning district and shall be subject to the regulations in §23-151(l), Proof of validity and expiration of plans, of this chapter.

g. Recording of Development Plan and Implementation Plan Document (IPD).

1. The applicant shall file the Development Plan and Implementation Plan Document (IPD), signed by all parties in the Register of Deeds Office of the jurisdictional county within thirty (30) days from the date of Common Council approval of the PD overlay district and shall provide the Community and Economic Development Director a recorded copy of the Development Plan and Implementation Plan Document (IPD). This constitutes approval of the Development Plan and Implementation Plan Document (IPD), conditions applied, modifications, and any density premiums that may be granted.
and exceptions, if any, to the plan shown in the application that were ordered by the Common Council.

2. No permit allowing construction of a building or other development, shall take place until the required recording of the Development Plan and Implementation Plan Document (IPD) and the posting by the applicant of the required improvement deposits and relevant City fees unless permitted by the Community and Economic Development Director. The applicant shall pay all recording costs.

(n) **Specific content of Development Plans.** PD overlay district Development Plans and supporting data shall include all documentation listed in this section of the zoning ordinance. In developing plans and specifications for all required improvements, the applicant must also conform to the standards set forth in applicable sections of the Municipal Code.

1. **Development plan set.** The applicant shall provide a complete set of development plans, a digital file of the Development Plan, a PD overlay district rezoning or PD overlay district amendment application and the appropriate fee as established by the Common Council.

   a. **A topographic survey and location map.**

   b. **Detailed plan.** A drawing of the Development Plan shall be prepared at a scale not less than one (1) inch equals one hundred (100) feet, or as considered appropriate by the Community and Economic Development Director, and shall show such designations as proposed streets, lots, all buildings, showing their setback dimensions to lot lines and their use, common open space, recreation facilities, parking areas, showing their setback dimensions to lot lines, service areas and other facilities to indicate the character of the proposed development. Provide note(s) identifying the lot coverage percentage of impervious surface coverage and the percentage of permanent common open space within the PD.

   The submission may be composed of one (1) or more sheets and drawings and shall include:

   1. Boundary lines. Bearings, distances and acreage.

   2. Easements. Location, width and purpose.

   3. Existing land use. On PD property and up to one hundred fifty (150) feet on adjacent lots.

   4. Other conditions on adjoining land, such as actual direction and gradient of ground slope, including any embankments or retaining walls; character and location of major buildings, railroads, power lines, towers and other nearby non-residential land uses or adverse influences; for owners of adjoining platted land refer to subdivision plat by name, recording date and number and show approximate percent built up, typical lot size and dwelling type.

   5. Zoning on and adjacent to the tract.

   6. Streets on and adjacent to the tract, such as street name, right-of-way width, existing or proposed centerline elevations pavement type, walks, curbs, gutters, culverts, etc.

   7. General location, purpose and height of each residential and non-residential building.

   8. Map data. Name of development, north arrow, scale and date of preparation.

   9. An accurate legal description of the entire area within the PD.

The following subsections 10 through 22 may be waived by the Community and Economic Development Director:

10. Proposed public improvements. Such as highways and other major improvements planned by public authorities for future construction on or near the tract.

11. Utilities on and adjacent to the tract. Such as location, size and invert elevation of sanitary and storm sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone
ZONING

lines and street lights; direction and distance to, and size of nearest water mains and sewers adjacent to the tract showing invert elevation of sewers.

12. Ground elevation on the tract and on the first fifty (50) feet on all adjacent tracts. Showing one (1) foot contours for land which slopes less than one-half percent (½%) along with all breaks in grades, at all drainage channels or swales and at selected points not more than one hundred (100) feet apart in all directions; for land that slopes more than one-half percent (½%) showing two (2) foot contours. Any land within the one hundred (100) year floodplain within the project area shall be identified on these plans.

13. Subsurface conditions on the tract. Tests made to ascertain subsurface soil, rock and groundwater conditions, depth to groundwater, unless test pits are dry at a depth of five (5) feet.

14. Other conditions on the tract. Water courses, marshes, rock outcrops, wooded areas, isolated trees one (1) foot or more in diameter, existing structures and other significant features.

15. Title and certificates. Present tract designation according to official records in Office of the Register of Deeds; title under which the proposed development is to be recorded, with names and addresses of owners and notation stating acreage. Owners shall include beneficial owners of any land trust.

16. Names. The names and addresses to whom notices of hearings shall be sent, including the subdivider or developer, the designer of the subdivision or development and the owners of the land immediately adjoining the land to be platted.

17. Open space. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners, with the purpose indicated.

18. Miscellaneous. Such additional documents as may be required by the Community and Economic Development Director. The Community and Economic Development Director shall inform the applicant of such requirements after the pre-application conference.

19. A drainage plan signed by a Wisconsin Registered Professional Engineer that conforms to City standards for site drainage.

20. Tabulation of each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre.

21. An accurate legal description of each separate unsubdivided use area, including open area.

22. A storm water management plan signed by a Wisconsin Registered Professional Engineer that conforms to City Storm Water Management Ordinance.

c. Exceptions. Identification and explanation of those aspects of the proposed PD overlay district that vary from the zoning ordinance requirements applicable to the underlying zoning district and from other applicable regulations of the City.

d. Character. Explanation of the character of the PD overlay district and the reasons why it has been planned to take advantage of the flexibility of these regulations. This item shall include a specific explanation of how the proposed PD overlay district meets the objectives of this section.

e. Ownership. Statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

f. Landscape and lighting plan. A general landscape concept plan for the site as well as a lighting concept plan for the site and the effects of such lighting on adjacent properties.

The following subsections g. through p. may be required by the Community and Economic Development Director:
g. **Schedule.** Development schedule indicating:

1. Stages in which the project will be built, with emphasis on area, density, use and public facilities, such as open space to be developed with each stage. Each stage shall be described and mapped as a unit of the project. Overall design of each unit shall be shown on the plan and through supporting graphic material.

2. Dates for beginning and completion of each stage.

h. **Covenants.** Proposed agreements, provisions or covenants which will govern the use, maintenance and continue protection of the PD and any of its common open space. Proposed condominium declaration and bylaws of condominium form of ownership or homeowner's association if it is to be used in the PD.

i. **Nonresidential intensity.** Information on the type and amount of nonresidential uses including building locations, sizes, building height, the amount and location of common open space, the hours of operation, number of employees and specific uses.

j. **Architectural plans.** Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of the development, the design elements of the building and the number, size and type of dwelling units.

k. **Facilities plan.** Development plans and feasibility reports for:

1. Streets, including classification, width of right-of-way, width of pavement and construction details.

2. Sidewalks.


4. Storm drainage.

5. Water supply system.

6. Street lighting.

7. Public utilities.

l. **Community-benefit analysis.** A study indicating the fiscal impact of the PD overlay district on major taxing bodies which shall include the municipal corporation, school district(s) and other taxing bodies. Information will include detailed estimates on: expected population of the development, the operating cost to be incurred by each taxing body, any additional major capital investments required, in part or in whole, because of the PD overlay district, revenue generated for each taxing body by the PD overlay district to offset service and fiscal demands created by the PD overlay district.

m. **Traffic analysis.** A study of the impact caused by the PD overlay district on the street and highway systems operating in the City.

n. **Market information.** Documentation indicating the extent of market demand for the uses proposed in the PD overlay district including analysis of demographics, sales potentials, competitive alignment, assessment of market share and market positioning of each component of the PD overlay district.

o. **Environmental analysis.** The major impacts of the PD overlay district on the environment shall be analyzed and shall disclose all major negative impacts. Generally, these impacts would include effects on discrete ecosystems, deteriorated air quality in the immediate vicinity and along arterial and collector roads leading to the PD overlay district to a distance established by the City Engineer, any deterioration in the groundwater or surface water quality, effect on sensitive land areas such as floodplains, wetlands, forests, aquifer recharge areas, historic buildings or structures.
p. **Open space standards.** All open space, at the election of the City, shall be:

1. Conveyed to the City; or

2. Conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the PD overlay district or adjacent property owners or any one (1) or more of them. All lands so conveyed shall be subject to the right of the grantee(s) to enforce maintenance and improvement of the common open space; or

3. Guaranteed by a restrictive covenant described the open space and its maintenance and improvement, running with the land for the benefit of residents of the PD overlay district or adjacent property owners.

(o) **Findings of fact.** In reporting its findings and recommendations on a PD overlay district, Development Plan and Implementation Plan Document (IPD) to the Common Council, the Plan Commission will submit findings of fact upon which it has based its recommended action. These findings of fact will relate to the specific proposal and shall set forth with particularity in what respects the proposal would or would not be in the public interest, including findings of fact on the following:

1. In what respects the proposed plan is or is not consistent with the stated purpose, requirements, and standards of the PD regulations.

2. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property and the reasons why such departures are or are not deemed to be in the public interest.

3. The extent of public benefit of the PD in terms of meeting planning objectives and enhancing the tax base and economic development. Any specific beneficial actions, plans, or programs agreed to in the PD proposal which are clearly beyond the minimum requirements of this chapter shall be specifically listed as evidence of justified exceptions.

4. The physical design of the proposed plan and the manner in which said design makes adequate provision for public services, provides adequate control over vehicular traffic, provides for common open space and furthers the amenities of light, air, recreation and visual enjoyment.

5. The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

(p) **Changes in the PD.** A PD shall be developed only according to the approved and recorded Development Plan and Implementation Plan Document (IPD) and all supporting data. The recorded Development Plan, Implementation Plan Document (IPD) and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of the premises (including the internal use of buildings and structures) and location of structures in the PD, as set forth therein.

1. **Major changes.** Changes which alter the concept or intent of the PD, including:

   a. Increases in the density by more than ten percent (10%);
   
   b. Increases in the height of building(s) by more than ten percent (10%);
   
   c. Reductions of proposed open space by more than ten percent (10%);
   
   d. Modification in proportion of housing types by more than ten percent (10%);
   
   e. Changes in standards of infrastructure or alignment of streets, including major alterations in the placement of utilities, water, electricity, drainage or changes in the final governing agreements, provisions or covenants.
Major changes may be approved only by submission of a new Development Plan and Implementation Plan Document (IPD) and supporting data, and following the development plan approval steps, holding of a new public hearing and subsequent amendment and recordation of the Implementation Plan Document (IPD).

(2) **Minor changes.** The Community and Economic Development Director may approve minor changes in the PD which do not change the concept or intent of the development, without going through the Development Plan approval steps. Minor changes are defined as any change not defined as a major change. Any minor changes approved shall be properly filed with the Community and Economic Development Director or it shall be automatically deemed to be a major change.

Sec. 23-152. TND traditional neighborhood development overlay district.

(a) **Purpose.** The purpose of this district is to allow for optimal development and redevelopment of land in a manner that is consistent with the design principles of traditional neighborhoods. Promoting the proximity of residential, commercial and civic uses capitalizes on the benefits received through the coordination and interaction of these uses at a pedestrian scale. The district is intended to be mapped as an overlay upon existing, underlying zoning districts, the requirements of which will also apply.

It is not intended that the City will automatically grant the use of exceptions or maximum density increases for all traditional neighborhood developments overlay districts (TND overlay district), but it is expected the City shall grant only such increases or uses which are consistent with the benefits accruing to the City as a result of the traditional neighborhood development. Therefore, the City may require as a condition of approval any reasonable condition, limitation or design factor that will promote proper development in the TND overlay district.

The following advantages are contributing factors found in a traditional neighborhood development:

1. Designs that balance the needs of residential uses and non-residential uses while creating compatibility among these uses;
2. Designs that are compact, pedestrian-oriented and relate to the human scale;
3. Designs that promote a variety of housing, types, styles and sizes;
4. Designs that reflect the City’s development and planning policies reflected in the residential neighborhoods or non-residential areas in which the district is to be located;
5. Designs that enhance the appearance of neighborhoods by conserving areas of natural beauty and natural green spaces;
6. Designs that counteract possible urban monotony and congestion on streets through promotion of all types of transportation (walking, biking, etc.); and
7. Designs that promote compatible architecture between adjacent buildings.

(b) **Definition.** For the purpose of this ordinance:

*Traditional Neighborhood Development* means a compact, mixed-use neighborhood where residential, commercial and civic buildings are within close proximity to each other.

(c) **Designation of traditional neighborhood development overlay district.** The TND overlay district shall be designated by the Common Council pursuant to the provisions of §23-65, Zoning amendments, and shall be shown as an overlay to the underlying districts by the designation of TND overlay district on the City of Appleton Official Zoning Map.
In determining the proper location for such an overlay within the City, the City shall consider these provisions are intended to accommodate developments that involve more than one use, that may be located in one (1) or more zoning district, and provide the following:

(1) The application of this overlay district would provide a choice in the type of environment available to the public by allowing development that would not be possible under the strict application of other sections of this chapter.

(2) The application of this overlay district would encourage development and/or permanent reservation of open space, recreational areas and facilities.

(3) The application of this overlay district would accommodate a land use plan which permits preservation of green space, natural vegetation, topographic and geologic features and historic resources.

(4) The application of this overlay district would allow a creative approach to the use of land and related physical facilities which results in better urban design, higher quality construction and the provision of aesthetic amenities.

(5) The application of this overlay district would allow the efficient use of land, so as to promote economies in the provision of utilities, streets, educational institutions, public grounds and buildings and other facilities.

(6) The application of this overlay district would allow innovations in development so the needs and demands of the population may be met by a greater variety in type, design and layout of buildings, and by conservation and more efficient use of open space ancillary to said buildings, all in a manner so as to be consistent with the character of the zoning district over which the TND overlay district is to be located.

(7) The application of this overlay district would allow a land use which promotes the public health, safety, comfort, morals and welfare.

(d) **Size of district.** No district shall be established unless it contains the minimum area specified in this section.

(1) The gross area required for a TND overlay district shall be no less than ten (10) acres. All acreage shall be contiguous.

(2) Applications for a TND overlay district, on sites containing less than the required acreage listed above, but not less than the underlying zoning district requirements, may be approved upon proof by the owner the development is in the public interest and one (1) or more of the following conditions exist:

   a. The property contains steep topography or other unusual physical features which necessitate substantial deviation from the regulations otherwise applicable, in order to ensure a safe, efficient and attractive development.

   b. The property is adjacent to an existing TND overlay district and will contribute to the maintenance of amenities and values of the neighboring property.

   c. The proposal involves the redevelopment of an existing area or makes use of an infill site that could not be reasonably developed under conventional zoning requirements.

   d. The property lends itself to creative design that will enhance quality of life in the proposed development.

(e) **Designation of permanent common space.** No plans for a TND overlay district shall be approved, unless the plan provides for permanent, landscaped, open space.

(1) Open space standards shall be identified in the TND overlay district design standards §23-152(r)(1), Open space design standards.
APPLETON CODE

(f) **Area, height and yard requirements.** Lot area, width, building height, yard and similar requirements shall be as established below. All requirements established shall be approved by the Common Council and made a part of the approved Development Plan and Implementation Plan Document (IPD).

**Area, height and yard requirement table**

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Single- and Two-Family</th>
<th>Multi-family, Civic and Commercial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td>4,000 s.f.</td>
<td>2,000 s.f. per unit for multifamily</td>
</tr>
<tr>
<td>Maximum Lot Size</td>
<td>6,000 s.f.</td>
<td>1 acre</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>40 feet</td>
<td>40 feet</td>
</tr>
<tr>
<td>Front Yard Setback</td>
<td>10 feet maximum</td>
<td>10 feet maximum</td>
</tr>
<tr>
<td></td>
<td>0 feet minimum</td>
<td>0 feet minimum</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>5 feet street side</td>
<td>5 feet street side</td>
</tr>
<tr>
<td></td>
<td>0 feet interior</td>
<td>0 feet interior</td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>5 feet</td>
<td>10 feet</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>35 Feet Principal Use</td>
<td>45 Feet Principal Use</td>
</tr>
<tr>
<td></td>
<td>15 Feet Accessory Use</td>
<td>15 Feet Accessory Use</td>
</tr>
<tr>
<td>Maximum Building Coverage</td>
<td>70%</td>
<td>70%</td>
</tr>
<tr>
<td>Maximum Impervious Surface</td>
<td>80%</td>
<td>90%</td>
</tr>
</tbody>
</table>

(g) **Density, height, yard and other regulation exceptions.** In the case of any TND overlay district, the Plan Commission may recommend and the Common Council may authorize, exceptions to the applicable bulk, height, yard and other regulations of this chapter within the boundaries of such TND overlay district, provided the Plan Commission shall find that such exception shall be for the purpose of promoting an integrated site plan as beneficial to the tenants or occupants of such development, as well as the neighboring properties, than would be obtained under the bulk regulations of this chapter for buildings developed on separate zoning lots.

(h) **Principal permitted uses.** The following principal permitted uses are permitted as of right in the TND overlay district.

1. The following uses are listed as permitted in the underlying zoning district. In the case of a lot located in more than one (1) underlying zoning district, the use limitations of the underlying zoning district shall apply:
   a. All R-1A, R-1B and R-1C single-family district residential permitted uses;
   b. All R-2 two- (2-) family district residential permitted uses;
   c. All R-3 multi-family residential district permitted uses;
   d. All C-O commercial office district permitted;
   e. All C-1 neighborhood mixed use district permitted uses;
   f. All C-2 general commercial district permitted uses, except the following:
      1. Hospitals;
      2. Towing business pursuant to §23-66(h)(16).
(2) **Special uses.** Uses listed as special uses in the following underlying zoning district(s) may be listed as permitted uses in the TND overlay district and shall be reviewed and approved, approved with conditions or denied as part of the TND overlay district process:

a. All R-1A, R-1B, and R-1C single-family residential district special uses;

b. All R-2 two- (2-) family residential district special uses;

c. All R-3 multifamily residential district special uses;

d. All C-O commercial office district special uses, except the following:
   1. Electronic towers pursuant to §23-66(h)(1);
   2. Helicopter landing pads pursuant to §23-66(h)(9);
   3. Towers or antennas for wireless telecommunication services, pursuant to Article XIII.

e. All C-1 neighborhood mixed use district special uses, except the following:
   1. Electronic towers pursuant to §23-66(h)(1);
   2. Towers or antennas for wireless telecommunication services, pursuant to Article XIII.

f. All C-2 general commercial district special uses, except the following:
   1. Sexually-oriented establishments pursuant to Article XII;
   2. Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5);
   3. Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to §23-66(h)(5);
   4. Body repair and/or paint shops pursuant to §23-66(h)(4);
   5. Electronic towers pursuant to §23-66(h)(1);
   6. Helicopter landing pads pursuant to §23-66(h)(9);
   7. Manufacturing, light;
   8. Research laboratories or testing facilities;
   9. Towers or antennas for wireless telecommunication services, pursuant to Article XIII.

(3) Uses as approved or as recommended by the Plan Commission and Common Council as identified in §23-152(j), Use regulation exceptions.

(i) **Other uses.**

(1) **Accessory uses.** Uses listed as accessory uses in the underlying zoning district(s) are permitted as of right in the TND overlay district.

(2) **Temporary uses and structures.** Uses listed as temporary uses and structures in the underlying district(s) may be permitted in the TND overlay district.
(j) **Use regulation exceptions.** The Plan Commission may recommend and the Common Council may authorize that there be allowed in part of the area of a proposed TND overlay district, specified uses not permitted by the use regulations of the underlying zoning districts in which the development is located, provided that the Plan Commission shall find:

1. That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose and character of the TND overlay district.
2. That the uses permitted by such exception are not of such nature or so located as to exercise a detrimental influence on the neighborhoods surrounding the TND district, or upon the internal character of any part of, or all of the TND overlay district, itself.
3. That the use exceptions so allowed are listed in the Implementation Plan Document (IPD), of which a recorded copy of the Implementation Plan Document (IPD), shall be filed in the office of the Community and Economic Development Director.
4. That any excepted use which is listed as a special use in any district, unless such use is permitted as of right in the underlying zoning district, shall require a two-thirds (2/3) vote of the Common Council.

(k) **Signs.** Sign regulations applicable in the TND overlay district are set forth in Article XIV, Signs.

(l) **Outdoor lighting, parking and landscape standards.** All standards of the following apply: outdoor lighting requirements as set forth in §23-53, Outdoor lighting. Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards and in §23-152(r), TND overlay district design standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(m) **Period of validity and expiration of plans.** A TND overlay district designation remains on TND overlay district parcels even if there is no approved Development Plan and/or Implementation Plan Document (IPD), the TND overlay district Development Plan and Implementation Plan Document (IPD) has expired or the TND overlay district Development Plan and Implementation Plan Document (IPD) has been made invalid. Any future development requires a submittal of a TND overlay district Development Plan and Implementation Plan Document (IPD) and its approval or a request to rezone the property.

1. Once a Development Plan and Implementation Plan Document (IPD) has expired for any portion of the Traditional Neighborhood Development Overlay District, no development shall occur within the expired portions of the Traditional Neighborhood Development Overlay District until:
   a. A new Development Plan and Implementation Plan Document (IPD) is resubmitted and is recommended for approval by the Plan Commission to Common Council;
   b. Common Council approves the Development Plan and Implementation Plan Document (IPD); and

2. A one (1) year extension of an approved Development Plan and Implementation Plan Document (IPD) may be granted by Common Council for good cause shown by the applicant.

(n) **Procedure for approval of a Development Plan within the district.** No development in a TND overlay district shall be permitted within this district unless it is submitted, reviewed, and approved subject to the following procedures:

All required improvements, construction standards, design standards and all other engineering standards contained within the Municipal Code shall be complied with, except where specifically varied through the provisions of this section of the chapter.

Applications shall be made on forms provided by the City and shall be accompanied by the required plans and documents. The application and all requirements shall be reviewed and determined complete by the Community and Economic Development Director. The steps in the procedure are as follows:

1. **Step 1. Pre-application conference.** Prior to filing a formal application for approval of a TND overlay district Development Plan, the applicant shall schedule a pre-application meeting with the Community and Economic Development Director.
a. The purpose of the pre-application conference is to provide two-way communication between the applicant, the Community and Economic Development Director and City staff regarding the legal, planning, engineering and storm water management aspects of the potential development. Accordingly, the applicant shall submit conceptual plans and other pertinent information to the Community and Economic Development Director for review and discussion by other city departments prior to submittal of a TND overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD). The conceptual plan shall include the entire area of the intended TND overlay district, even if the TND overlay district is to be developed in phases.

b. A pre-application conference review shall consider: success in achieving the purposes of the TND overlay district ordinances; adequacy of public and private services and facilities; ability to conform with all applicable codes and ordinances; utilization of commonly accepted principles of good site planning; and consistency with the comprehensive plan.

c. Submittal requirements for the TND overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be reviewed as part of the pre-application conference. A submitted item may be waived as part of this review if determined as not needed, already known or needed at a future review process.

d. The aforementioned requirements may be waived at the discretion of the Community and Economic Development Director.

(2) Step 2. Application, Development Plan and Implementation Plan Document (IPD). The Development Plan, complete application and fee and Implementation Plan Document (IPD) for the TND overlay district shall be submitted by the applicant to the Community and Economic Development Director who, after determining the application to be complete, will file the Development Plan, complete application and fee, and Implementation Plan Document (IPD) for the TND overlay district. The application and fee shall be filed with the City Clerk and the application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be forwarded to the Plan Commission for their consideration, informal hearing, and recommendation.

The required procedure for consideration and approval of the TND overlay district shall be:

a. Submission of materials. The applicant shall prepare and submit the following plans and documents:

1. All information listed in §23-152(o), Specific contents of Development Plans.

2. Written application and application fee for approval of a TND overlay district to be made on forms and in the manner prescribed by the City.

3. A completed copy of the Implementation Plan Document (IPD) as prescribed by the City shall be submitted to the Community and Economic Development Director on a diskette or by electronic mail. The Implementation Plan Document (IPD) functions to inform all whom deal with the TND overlay district of the restrictions placed upon the land and acts as a customized zoning district control device.

4. A statement of conformity with City’s other relevant ordinances along with a list of any requested variations from these ordinances.

b. Development Plan and Implementation Plan Document (IPD) review. The Community and Economic Development Director shall coordinate a review of the Development Plan and Implementation Plan Document (IPD) to include review by all relevant departments and submit written findings and recommendations to the Plan Commission for an informal hearing.

c. Informal hearing. The Plan Commission shall hold an informal hearing on each application for approval of a TND overlay district including the Development Plan and Implementation Plan Document (IPD) in accordance with §23-65(d), Map amendments, of this chapter.
d. **Plan Commission findings.** Following the informal hearing, the Plan Commission shall make its findings and recommendations and send a written report to the Common Council that shall include findings of fact upon which its recommendations are based. Such findings and recommendations shall include a recommendation for approval, disapproval or approval with modifications. This report to the Common Council must be submitted within thirty (30) days after the last session of the informal hearing of the Plan Commission or the Plan Commission must indicate to the Common Council, in writing, why such report cannot be rendered within that time period.

e. **Common Council action.** The Common Council shall hold a public hearing and act upon the recommendation within forty-five (45) days after receipt of the Plan Commission’s report. The Common Council may approve, approve with modifications, refer back to the Plan Commission, disapprove the plan or provide written explanation to the petitioner on why an extension is required for Common Council action. The time period for action shall be exclusive of any time extensions or continuances requested by the petitioner.

f. **Period of validity.**

(1) The Development Plan and Implementation Plan Document (IPD), as approved by the Common Council, shall remain valid for a period of one (1) year during which time building permit(s) for a substantial portion of development occurring within the approved first phase of the Development Plan or, if the Development Plan does not consist of development phases, the complete Development Plan must be applied for and received by the applicant. The one (1) year period shall begin on the date the Common Council approves the TND overlay district, Development Plan and Implementation Plan Document (IPD).

a. For the purposes of this section, “substantial portion of development” shall mean that at least thirty percent (30%) of the building permits required for the overall project or phase, if in phases, have been applied for and approved.

(2) The Common Council may extend this period upon recommendation of the Plan Commission. If the applicant does not apply for and receive a building permit within one (1) year from the date of Common Council approval of the TND overlay district, Development Plan and Implementation Plan Document (IPD), the Development Plan and Implementation Plan Document (IPD) will constitute abandonment of the TND overlay district and related approvals, and any assumed development rights over that allowed through the base-zoning district and shall be subject to the regulations in §23-152(m), Proof of validity and expiration of plans, of this chapter.

g. **Recording of Development Plan and Implementation Plan Document (IPD).**

(1) The applicant shall file the Development Plan and Implementation Plan Document (IPD) signed by all parties in the Register of Deeds Office of the jurisdictional county within thirty (30) days from the date of Common Council approval of the TND overlay district and shall provide the Community and Economic Development Director a recorded copy of the Development Plan and Implementation Plan Document (IPD). This constitutes approval of the Development Plan and Implementation Plan Document (IPD), conditions applied, modifications and any density premiums which may be granted and exceptions, if any, to the plan shown in the application ordered by the Common Council.

(2) No permit allowing construction of a building or other development, shall take place until the required recording of the Development Plan and Implementation Plan Document (IPD) and the posting by the applicant of the required improvement deposits and relevant City fees unless permitted by the Community and Economic Development Director. The applicant shall pay all recording costs.

(o) **Specific content of development plans.** TND overlay district Development Plans and supporting data shall include all documentation listed in this section of the zoning ordinance. In developing plans and specifications for all required improvements, the applicant must also conform to the standards set forth in applicable sections of the Municipal Code.
(1) **Development Plan set.** A complete set of Development Plans, a digital file of the Development Plan, a TND overlay district rezoning or TND overlay district amendment application and the appropriate fee as established by Common Council.

a. **A topographic survey and location map.**

b. **Detailed plan.** The applicant shall provide a drawing of the TND overlay district Development Plan shall be prepared at a scale not less than one (1) inch equals one hundred (100) feet, or as considered appropriate by the Community and Economic Development Director, and shall show such designations as proposed streets, lots, all buildings showing their setback dimensions to lot lines and their use, common open space, recreation facilities, parking areas showing their setback dimensions to lot lines, service areas and other facilities to indicate the character of the proposed development. Provide note(s) identifying the lot coverage percentage of impervious surface coverage and the percentage of permanent common open space within the TND overlay district.

The submission may be composed of one (1) or more sheets and drawings and shall include:

1. Boundary lines. Bearings, distances and acreage.
2. Easements. Location, width and purpose.
3. Existing land use. On TND overlay district property and up to one hundred fifty (150) feet on adjacent lots.
4. Other conditions on adjoining land such as actual direction and gradient of ground slope, including any embankments or retaining walls; character and location of major buildings, railroads, power lines, towers and other nearby nonresidential land uses or adverse influences, for owners of adjoining platted land refer to subdivision plat by name, recording date and number and show approximate percent built up, typical lot size and dwelling type.
5. Zoning on and adjacent to the tract.
6. Streets on and adjacent to the tract. Such as street name, right-of-way width, existing or proposed centerline elevations pavement type, walks, curbs, gutters, culverts, etc.
7. General location, purpose, and height of each residential and non-residential building.
9. An accurate legal description of the entire area within the TND overlay district.

The following subsections 10 through 22 may be waived by the Community and Economic Development Director:

10. Proposed public improvements. Such as highways and other major improvements planned by public authorities for future construction on or near the tract.
11. Utilities on and adjacent to the tract such as location, size and invert elevation of sanitary and storm sewers, location and size of water mains, location of gas lines, fire hydrants, electric and telephone lines and street lights, direction and distance to, and size of nearest water mains and sewers adjacent to the tract showing invert elevation of sewers.
12. Ground elevation on the tract and on the first fifty (50) feet on all adjacent tracts. Showing one (1) foot contours for land which slopes less than one-half percent (½%) along with all breaks in grades, at all drainage channels or swales and at selected points not more than one hundred (100) feet apart in all directions; for land that slopes more than one-half percent (½%) showing two (2) foot contours. Any land within the one hundred (100) year floodplain within the project area shall be identified on these plans.
13. Subsurface conditions on the tract. Tests made to ascertain subsurface soil, rock and groundwater conditions, depth to groundwater, unless test pits are dry at a depth of five (5) feet.

14. Other conditions on the tract. Water courses, marshes, rock outcrops, wooded areas, isolated trees one (1) foot or more in diameter, existing structures and other significant features.

15. Title and certificates. Present tract designation according to official records in office of the Register of Deeds, title under which the proposed development is to be recorded, with names and addresses of owners and notation stating acreage. Owners shall include beneficial owners of any land trust.

16. Names. The names and addresses to who notices of hearings shall be sent, including the subdivider or developer, the designer of the subdivision or development and the owners of the land immediately adjoining the land to be platted.

17. Open space. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners, with the purpose indicated.

18. Miscellaneous. Such additional documents as may be required by the Community and Economic Development Director. The Community and Economic Development Director shall inform the applicant of such requirements after the pre-application conference.

19. A drainage plan signed by a Wisconsin Registered Professional Engineer that conforms with City standards for site drainage.

20. Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre.

21. An accurate legal description of each separate unsubdivided use area, including open space.

22. A storm water management plan signed by a Wisconsin Registered Professional Engineer that conforms to City Storm Water Management Ordinance.

c. Exceptions. Identification and explanation of those aspects of the proposed TND overlay district that vary from the zoning ordinance requirements applicable to the underlying zoning district and from other applicable regulations of the City.

d. Character. Explanation of the character of the TND overlay district and the reasons why it has been planned to take advantage of the flexibility of these regulations. This item shall include a specific explanation of how the proposed TND overlay district meets the objectives of this section.

e. Ownership. Statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

f. Landscape and lighting plan. A general landscape concept plan for the site as well as a lighting concept plan for the site and the effects of such lighting on adjacent properties.

The following subsections g. through p. may be required by the Community and Economic Development Director:

g. Schedule. Development schedule indicating:

1. Stages in which the project will be built, with emphasis on area, density, use and public facilities, such as open space to be developed with each stage. Each stage shall be described and mapped as a unit of the project. Overall design of each unit shall be shown on the plan and through supporting graphic material.

2. Dates for beginning and completion of each stage.
h. **Covenants.** Proposed agreements, provisions, or covenants which will govern the use, maintenance and continued protection of the TND and any of its common open space. Proposed condominium declaration and bylaws of condominium form of ownership or homeowner’s association if it is to be used in the TND overlay district.

i. **Non-residential intensity.** Information on the type and amount of non-residential uses including building locations, sizes, building height, the amount and location of common open space, the hours of operation, number of employees and specific uses.

j. **Architectural plans.** Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of the development, the design elements of the building and the number, size and type of dwelling units.

k. **Facilities plan.** Development plans and feasibility reports for:
   1. Streets, including classification, width of right-of-way, width of pavement and construction details.
   2. Sidewalks.
   4. Storm drainage.
   5. Water supply system.
   6. Street lighting.
   7. Public utilities.

l. **Community-benefit analysis.** A study indicating the fiscal impact of the TND overlay district on major taxing bodies which shall include the municipal corporation, school district(s) and other taxing bodies. Information will include detailed estimates on: expected population of the development, the operating cost to be incurred by each taxing body, any additional major capital investments required, in part or in whole, because of the TND overlay district, revenue generated for each taxing body by the TND overlay district to offset service and fiscal demands created by the TND overlay district.

m. **Traffic analysis.** A study of the impact caused by the TND overlay district on the street and highway systems operating in the City.

n. **Market information.** Documentation indicating the extent of market demand for the uses proposed in the TND overlay district including analysis of demographics, sales potentials, competitive alignment, assessment of market share and market positioning of each component of the TND overlay district.

o. **Environmental analysis.** The major impacts of the TND overlay district on the environment shall be analyzed and shall disclose all major negative impacts. Generally, these impacts would include effects on discrete ecosystems, deteriorated air quality in the immediate vicinity and along arterial and collector roads leading to the TND overlay district to a distance established by the City Engineer, any deterioration in the groundwater or surface water quality, effect on sensitive land areas such as floodplains, wetlands, forests, aquifer recharge areas, historic buildings or structures.

p. **Open space standards.** All open space, at the election of the City shall be:
   1. Conveyed to the City; or
   2. Conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the TND overlay district or adjacent property owners or any one (1) or more of them. All lands so conveyed shall be subject to the right of grantee(s) to enforce maintenance and improvement of the common open space; or
3. Guaranteed by a restrictive covenant describing the open space and its maintenance and improvement, running with the land for the benefit of residents of the TND overlay district or adjacent property owners.

(p) **Findings of fact.** In reporting its findings and recommendations on a TND overlay district Development Plan and Implementation Plan Document (IPD) to the Common Council, the Plan Commission will submit findings of fact upon which it has based its recommended action. These findings of fact will relate to the specific proposal and shall set forth with particularity in what respects the proposal would or would not be in the public interest, including findings of fact on the following:

1. In what respects the proposed plan is or is not consistent with the stated purpose, requirements, and standards of the TND overlay district regulations.

2. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property and the reasons why such departures are or are not deemed to be in the public interest.

3. The extent of public benefit of the TND overlay district in terms of meeting planning objectives and enhancing the tax base and economic development. Any specific beneficial actions, plans, or programs agreed to in the TND overlay district proposal which are clearly beyond the minimum requirements of this chapter shall be specifically listed as evidence of justified exceptions.

4. The physical design of the proposed plan and the manner in which said design makes adequate provision for public services, provides adequate control over vehicular traffic, provides for common open space and furthers the amenities of light, air, recreation and visual enjoyment.

5. The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

(q) **Changes in the TND overlay district.** A TND overlay district shall be developed only according to the approved and recorded Development Plan and Implementation Plan Document (IPD) and all supporting data. The recorded Development Plan, Implementation Plan Document (IPD) and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of the premises (including the internal use of buildings and structures) and location of structures in the TND overlay district, as set forth therein.

1. **Major changes.** Changes which alter the concept or intent of the TND overlay district, including:
   a. Increases in the density by more than ten percent (10%);
   b. Increases in the height of building(s) by more than ten percent (10%);
   c. Reductions of proposed open space by more than ten percent (10%);
   d. Modification in proportion of housing types by more than ten percent (10%);
   e. Changes in standards of infrastructure or alignment of streets, including major alterations in the placement of utilities, water, electricity, drainage or changes in the final governing agreements, provisions or covenants.

   Major changes may be approved only by submission of a new Development Plan and supporting data, and following the Development Plan and Implementation Plan Document (IPD) approval steps, holding of a new public hearing and subsequent amendment and recordation of the Implementation Plan Document.

2. **Minor changes.** The Community and Economic Development Director may approve minor changes in the TND overlay district that do not change the concept or intent of the development, without going through the Development Plan approval steps. Minor changes are defined as any change not defined as a major change.
Any minor changes approved shall be properly filed with the Community and Economic Development Director or it shall be automatically deemed to be a major change.

(r) **TND overlay district design standards.**

(1) **Open space standards.** Design standards for open spaces within a TND overlay district are established below:

a. At least twenty percent (20%) of the gross acreage of the TND overlay district shall be open space, exclusive of yards on private property.

b. Open space may include undevelopable areas such as steep slopes or wetlands and stormwater detention and retention basins, parks, playgrunds, landscaped green spaces and natural areas.

c. At least twenty-five percent (25%) of open space must be common open space dedicated to the public for parkland or civic open spaces.

d. In its design, at least eighty percent (80%) of the lots within areas devoted to residential uses shall be within a quarter (1/4) mile (645 feet) walk from common open space.

e. The location of common dedicated open spaces shall be consistent with locations established in parks and recreation plans adopted by the City.

One (1) or more open space types as identified below shall be incorporated as an integral part of the TND overlay district as appropriate. Open spaces may be active or passive recreation. Large outdoor recreation areas shall be located in the most appropriate areas of the development to serve the TND overlay district and, potentially the surrounding area, whether at the periphery of neighborhoods or in central locations of the neighborhood.

1. Environmental corridors;

2. Protected natural areas;

3. Community parks;

4. Streams, ponds and other bodies of water;

5. Stormwater detention/retention facilities.

(2) **Mix of uses.** In order to achieve the proximity to make neighborhoods walkable, mixed-use environments are required. Mixes include residential, non-residential and open spaces. Two types of areas are required:

a. **Residential use area.** The purpose of these areas is to promote a core of residential housing for the TND overlay district. A mix of the following types can occur anywhere within the TND overlay district. For infill development, the mix of residential uses may only be satisfied by infilling with the same type of residential uses that are adjacent to the infill property.

Residential use area uses include:

1. Single-family detached dwellings;

2. Single-family attached dwellings including duplexes, townhouses and row houses;

3. Multi-family dwellings;

4. Group housing.
b. **Mixed use area.** The purpose of these areas is to promote a community center or focal point for the TND overlay district. A mix of non-residential uses including commercial, civic or institutional and open spaces shall be within approximately one quarter (1/4) mile or within a five (5) minute walk from residential use areas.

Mixed-use area uses include:

1. Commercial (non-residential) uses;
2. Single-family attached dwellings including duplexes, townhouses and row houses;
3. Multi-family dwellings;
4. Residential units located on the upper floors above or to the rear of storefronts;
5. Public or semi-public uses;
6. Open spaces including a civic square, neighborhood park or playground.

(3) **Lot and block standards.** In order to create an environment that is pedestrian friendly, a traditional grid and block system is required.

a. **Block and lot size diversity.** Street layouts shall provide for blocks that are in the range of four hundred (400) to eight hundred (800) feet long. A variety of lot sizes shall be provided to facilitate housing diversity and choice.

b. Blocks shall be established in a grid system without curvilinear streets.

c. All access to private garages, service structures and utilities shall be located in an alley that shall be located behind all uses and divide blocks.

(4) **Circulation standards.** The circulation system in a TND overlay district shall allow for different modes of transportation both internally and with external connections.

a. Circulation between different modes of transportation shall be minimized (pedestrian, bicycle and motor vehicle).

b. Street intersections shall be at right angles.

c. Streets shall terminate at other streets or at public land. Stub streets are permitted only when such streets will act as a connection to future phases of development.

(5) **Parking standards.** Shared or community parking is encouraged. In addition:

a. Off-street parking areas for commercial businesses and multifamily buildings shall be located at the rear or side of a building.

b. In mixed-use areas, adjacent on-street parking may apply toward the minimum off-street parking requirement.

(6) **Architectural standards.** A variety of architectural features and building materials is required to give each building or group of buildings a distinct character.

a. **Existing structures.** If an existing structure is determined to be historic or architecturally significant, shall be protected from demolition or encroachment by incompatible structures.
b. **New structures.**

1. **Height**
   
   i. New structures in a TND overlay district shall be as regulated in the table in §23-152(f), Area, height and yard requirements.
   
   ii. Adjacent buildings shall be no more than twenty-five percent (25%) taller or shorter than the average building height on the block to create a unified streetscape.

2. **Entries and facades**
   
   i. The architectural features, materials, and the articulation of a facade of a building shall be continued on all sides visible from a public street.
   
   ii. The front facade of the principal building on any lot in a TND overlay district shall face onto and be parallel to a public street.
   
   iii. The front facade shall not be oriented to face directly toward a parking lot.
   
   iv. Porches, roofs, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences.
   
   v. For commercial buildings, a minimum of fifty percent (50%) of the front facade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior.
   
   vi. New structures on opposite sides of the same street should follow similar design guidelines. This provision shall not apply to buildings bordering civic uses.

(7) **Signage standards.** A master sign program is required for the TND overlay district that establishes a uniform exterior sign theme. Signs shall share a common style (e.g. size, shape, material). Signage shall be limited to wall, awning and projecting signage pursuant to the area and size requirements of Article XIV, Signs.

(8) **Street trees.** One (1) street tree shall be required per forty (40) feet of street frontage. Deciduous canopy trees shall be used.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96; Ord 121-05, §1, 10-25-05; Ord 85-06, §1, 7-11-06; Ord 162-08, §1, 10-7-08; Ord 211-11, §1, 9-27-11)

**Secs. 23-153 – 23-171. Reserved.**
ARTICLE IX. OFF-STREET PARKING AND LOADING

Sec. 23-172. Off-street parking and loading standards.

(a) Purpose. The purpose of this section is to prevent or alleviate the congestion of the public streets and promote the safety and welfare of the public by establishing minimum requirements for off-street parking and loading spaces according to the use of the property and to promote safety and convenience for people by requiring that off-street parking spaces and driveways be located and constructed according to consistent standards for visibility, accessibility and safety.

(b) Applicability.

(1) All uses hereafter established, reconstructed, expanded, or changed in use shall provide off-street parking spaces, bicycle parking spaces and loading spaces in accordance with the applicable standards set forth in this chapter, unless otherwise stated in this chapter.

(2) All off-street parking lots and spaces, bicycle parking spaces and loading spaces shall be maintained, overlayed, resurfaced, rehabilitated, constructed, reconstructed or expanded in accordance with the applicable standards set forth in this chapter, unless otherwise stated.

(c) Provisions for nonconforming off-street parking lots, or loading areas.

(1) Provisions for maintenance, overlays, resurfacing, rehabilitation, reconstruction or expansions of nonconforming off-street parking lots or loading areas are found under the Nonconforming Buildings, Structures, Uses and Lots section of this chapter.

(d) Exceptions to design standards. The following are exempt from the design standards of this chapter.

(1) Due to the primarily pedestrian orientation of the Central Business District (CBD), provision for off-street parking and loading spaces are not required for uses in the CBD. However, new or expanded parking lots and loading areas in the CBD shall comply with the off-street parking and loading requirements of this section, including standards governing design, interior landscaping, and perimeter landscaping.

(2) Parking ramps and underground parking facilities. Shall be exempt from dimensional and landscaping requirements of this section, but all other requirements of this section shall be complied with.

(3) Semi truck and trailer parking areas within industrial districts and designed solely for semi-truck and trailer parking shall be exempt from dimensional, striping, surfacing and interior landscaping requirements, provided all of the following requirements are complied with.

   a. The entrance must be asphalt or concrete for at least the first twenty-five (25) feet from the right-of-way.

   b. All loading areas must be asphalt or concrete.

   c. The gravel must be periodically graded and maintained in a dust free manner, free of debris, weeds and other plant materials.

   d. The street adjoining the driveway must be free of gravel from the parking lot.

   e. A gravel semi-truck and trailer parking area shall not be located adjacent to a residentially zoned parcel.

(e) Design standards. All off-street parking spaces and off-street parking lots or areas shall conform to the following design requirements, unless otherwise stated in this chapter:
ZONING

Table 1
Off-Street Parking Spaces

<table>
<thead>
<tr>
<th>Angle A (in degrees)</th>
<th>Width B</th>
<th>Depth C</th>
<th>Aisle D</th>
<th>Stall E</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>One Way</td>
<td>Two Way</td>
</tr>
<tr>
<td>0</td>
<td>9 feet</td>
<td>N/A</td>
<td>12 feet</td>
<td>22 feet</td>
</tr>
<tr>
<td>45</td>
<td>9 feet</td>
<td>19 feet</td>
<td>13 feet</td>
<td>22 feet</td>
</tr>
<tr>
<td>60</td>
<td>9 feet</td>
<td>20½ feet</td>
<td>18 feet</td>
<td>24 feet</td>
</tr>
<tr>
<td>90</td>
<td>9 feet</td>
<td>18 feet</td>
<td>24 feet</td>
<td>9 feet</td>
</tr>
</tbody>
</table>

(1) **Dimensions.** The minimum dimensional standards for off-street parking spaces shall be as identified in Table 1, Off-Street Parking above.

(2) **Striping.** All off-street parking spaces shall be striped according to the standards of Table 1, Off-street Parking Spaces of this section to facilitate the movement into and out of the off-street parking spaces.

(3) **Maneuvering.** All off-street parking spaces shall be designed to provide all maneuvering to occur within the property line(s). Vehicles shall not back into the public right-of-way from an off-street parking lot or parking space. Alleys are an exception to this provision, as maneuvering may occur within alley right-of-way when authorized by the Director of the Department of Public Works or designee.

(4) **Parking space for handicapped.** Any off-street parking lot, parking ramp or underground parking facility to be used by the general public shall provide parking spaces designated and located to adequately accommodate the handicapped. These spaces shall comply with the current edition of the International Code Council/American National Standards Institute (ICC/ANSI) as adopted by the State of Wisconsin and the current Federal standards of the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

(5) **Drainage.** All off-street parking areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks unless this requirement is waived by the Director of Public Works or their designee. On-site storm drainage shall be provided in accordance with the State Plumbing Code, City Plumbing Code, and the City Stormwater Management Ordinance.

(6) **Protection Devices.**

a. Barriers, curbing, guardrails or wheel stops may be installed and so located as to prevent any portion of a vehicle from projecting beyond property lines, into any required landscaping and screening, or into a...
pedestrian space. Such barriers, curbing or wheel stops shall be constructed and anchored to prevent their dislocation.

b. When guardrails are installed, they shall be installed in accordance with all of the following provisions:

i. Guardrails shall abut the paved off-street parking lot, parking space, loading space or driveway surface and shall be located adjacent to a side or rear lot line.

ii. Landscape buffering or fencing shall be installed between the guardrail and a residentially zoned property line.

iii. Guardrails shall not exceed three (3) feet in height.

iv. Guardrails may be constructed of naturally resistant or treated wood board, galvanized metal, wrought iron, brick, natural stone, masonry, or other material as approved by the Community and Economic Development Director.

(7) Surface areas for off-street parking spaces. Off-street parking spaces and driveways, shall be concrete, asphalt, or another permeable hard surface as approved by the Community and Economic Development Director.

(8) Fire access lanes. Fire access lanes located outside of an off-street parking lot and constructed for the purpose of fire access may be constructed with an alternative surface material as required by §23-172(f)(7) if approved by the Fire Department.

(9) Lighting. All outdoor lighting shall comply with the outdoor lighting requirements of this chapter.

(10) Snow storage. Snow storage must be provided on-site or a letter from the owner of the property stating the method to remove the snow from the site in a timely fashion must be approved by the Community and Economic Development Director. Snow storage areas will be reviewed to ensure the continued health of plant materials and for their impact on drainage and vehicular circulation.

(11) Stop sign. When access is obtained from a collector or arterial street, a stop sign is required to be erected on the property by the owner. Stop signs shall be installed and maintained in accordance with the Federal Highway Administration Manual of Uniform Traffic Control Devices, the latest version.

(f) Interior parking lot landscaping.

(1) All parking lots designed for twenty (20) or more parking spaces shall be landscaped in accordance with the following interior parking lot standards.

a. Five percent (5%) of the minimum square footage of the paved area of the off-street parking lot shall be devoted to interior landscape islands.

b. The primary plant materials shall be shade or ornamental trees with at least one (1) shade tree for every two hundred (200) square feet of interior landscape island area, except in cases where drainage, stormwater, or utility features preclude the planting of trees.

c. The interior landscape islands shall be dispersed throughout the off-street parking lot to the satisfaction of the Community and Economic Development Director.

(2) All off-street parking lots designed for nineteen (19) off-street parking spaces or less shall provide landscaping as deemed appropriate by the Community and Economic Development Director.

(g) Perimeter parking lot and loading space landscaping. Perimeter off-street parking lot landscaping shall be installed on the property, outside of the street right-of-way.
(1) The minimum width of the perimeter landscape buffer adjacent to the right-of-way and/or abutting zoning districts shall be as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.

(2) When adjacent to a residential zoning district in the rear and/or side yard, perimeter landscape buffer shall be required as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.

(3) When adjacent to an institutional, commercial or industrial zoning district in the rear and/or side yard, perimeter landscape buffer shall be required as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.

(4) Perimeter landscaping shrubs must reach three (3) feet in height and screen the right-of-way from the adverse effects of the parking lot within two (2) years of planting. The shrubs shall be a minimum of two (2) feet in height at the time of planting.

(5) A side and/or rear yard minimum perimeter landscape buffer may be waived if a cross access easement agreement between adjoining property owners is recorded and submitted to the Community and Economic Development Department for review.

(h) **Maintenance.** All off-street parking lots shall be maintained by the property owner in good condition without holes or faded striping and free of all weeds, standing water, trash, abandoned or junk vehicles and other debris.

<table>
<thead>
<tr>
<th>When the Zoning District is:</th>
<th>Location is:</th>
<th>A Minimum Perimeter Landscape Buffer</th>
<th>Perimeter Landscaping Materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>C-O, M-1, M-2, P-I</td>
<td>Abutting R-1A, R-1B, R-1C, R-2, or R-3 zoned lot in the rear and/or side yard</td>
<td>Fifteen (15) feet in width</td>
<td>Minimum five (5) foot high staggered row of evergreens at the time of planting, to provide an opaque screen OR The property owner may request a waiver from the Community and Economic Development Director to reduce the minimum perimeter landscape strip by 50% and provide a minimum six (6) foot high alternating board on board fence with landscaping, with the landscaping facing the adjacent property.</td>
</tr>
<tr>
<td>C-1, C-2, CBD, AG, P, NC</td>
<td>Abutting R-1A, R-1B, R-1C, R-2, or R-3 zoned lot in the rear and/or side yard</td>
<td>Ten (10) feet in width</td>
<td></td>
</tr>
<tr>
<td>C-O, C-1, C-2, M-1, M-2, P-I, CBD, AG, P, NC</td>
<td>Abutting C-O, C-1, C-2, M-1, M-2, P-I, CBD, AG, P or NC zoned lot in the rear and/or side yard</td>
<td>Five (5) feet in width</td>
<td>One (1) deciduous shade tree or ornamental tree shall be planted for every fifty (50) feet on center. Trees can be provided in cooperation with adjacent property.</td>
</tr>
<tr>
<td>C-O, C-1, C-2, M-1, M-2, CBD, P-I, AG, P, NC</td>
<td>Across the street from R-1A, R-1B, R-1C, R-2 or R-3 zoned lot</td>
<td>Eight (8) feet in width adjacent to the right of way</td>
<td>One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen.</td>
</tr>
<tr>
<td>C-O, C-1, C-2, M-1, M-2, CBD, P-I, AG, P, NC</td>
<td>Across the street from C-O, C-1, C-2, P, NC, M-1, AG, CBD, P-I or</td>
<td></td>
<td>One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the</td>
</tr>
<tr>
<td>When the Zoning District is:</td>
<td>Location is:</td>
<td>A Minimum Perimeter Landscape Buffer</td>
<td>Perimeter Landscaping Materials</td>
</tr>
<tr>
<td>-------------------------------</td>
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<td>--------------------------------</td>
</tr>
<tr>
<td>C-O, C-1, C-2, P-1, M-1, M-2, CBD, AG, P, NC</td>
<td>M-2 zoned lot</td>
<td>Eight (8) feet in width adjacent to the right of way</td>
<td>property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens and/or deciduous shrubs at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen.</td>
</tr>
</tbody>
</table>

Ag, R-1A, R-1B, R-1C, R-2, R-3 | Abutting R-1A, R-1B, R-1C or R-2 zoned lot in the rear and/or side yard | Ten (10) feet in width | Minimum five (5) foot high staggered row of evergreens at the time of planting, to provide an opaque screen; OR The property owner may request a waiver from the Community and Economic Development Director to reduce the minimum perimeter landscape strip by 50% and provide a minimum six (6) foot high alternating board on board fence with landscaping, with the landscaping facing the adjacent property. |

Ag, R-1A, R-1B, R-1C, R-2, R-3 | Abutting R-3, P-I, C-O, C-1, C-2, CBD, M-1, M-2, AG, P or NC zoned lot in the rear and/or side yard | Five (5) feet in width | One (1) deciduous shade tree or ornamental tree shall be planted for every fifty (50) feet on center. Trees can be provided in cooperation with adjacent property. |

Ag, R-1A, R-1B, R-1C, R-2, R-3 | Across the street from R-1A, R-1B, R-1C or R-2 zoned lot | Eight (8) feet in width adjacent to the right of way | One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen. |

Ag, R-1A, R-1B, R-1C, R-2, R-3 | Across the street from P-I, C-O, C-1, C-2, CBD, M-1, M-2, AG, P or NC zoned lot | Eight (8) feet in width adjacent to the right of way | One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens and/or deciduous shrubs at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen. |

(i) **Off-site parking spaces.** The following regulations shall apply to off-site parking spaces and areas:

1. Off-street parking spaces for all residential uses shall be located on the same lot as the use to which they are associated.
(2) Off-street parking spaces for commercial, industrial or public institutional uses shall be located not more than five hundred (500) feet from the property line of the use being served.

(3) Where such off-site parking spaces are provided, the minimum number of required off-street parking spaces for the use(s) for which the lot is intended to serve shall not be reduced below the minimum required off-street parking spaces for all uses as indicated in this section.

(4) Where such off-site parking spaces are provided on a separate lot to comply with the minimum off-street parking space requirements, shall be guaranteed by written agreement between the owner of the parking lot and the owner of any use located on a separate parcel and served the off-street parking lot. This written agreement may be in the form of a lease, contract, easement or similar instrument, of which the form and duration shall be subject to review and approved by the Community and Economic Development Director.

(5) The property owners shall record the approved off-site parking space agreement in the County Register of Deeds Office, and shall provide one (1) copy of the recorded document to the Community and Economic Development Department.

(6) Any subsequent change in use shall require proof that the minimum parking requirements, per this chapter, have been met for each use of if the owner of a building or use no longer has the right to maintain or use off-site parking spaces on a separate parcel, the owner of a building or use shall have one hundred eighty (180) days within which to accommodate all required off-street parking spaces or to apply for a variance. If the owner is unable to accommodate the off-street parking spaces, or fails to apply for a variance, then the occupancy permit shall be revoked with respect to the building or use for which the separate off-street parking was required. The occupancy permit shall be reinstated when all applicable provisions of this chapter are complied with. As an alternative, a new off-site parking agreement may be arranged in accordance with this chapter.

(j) Determination of required off-street parking spaces. In computing the number of off-street parking spaces required by this chapter, the following shall apply:

(1) Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross square footage of all floors that may be occupied of a building.

(2) Where maximum capacity is designated as the standard for determining off-street parking space requirements, the maximum capacity shall mean the maximum number of persons permitted to occupy the building under the International Building Code (IBC) and the International Fire Code (IFC), whichever is more restrictive, currently used by the City.

(3) Where the number of employees is designated as the standard for determining off-street parking space requirements, the number of employees on the largest shift shall be used for calculation purposes.

(4) Fractional numbers shall be increased to the next highest whole number.

(5) An applicant may request an administrative adjustment for a reduction in the number of parking spaces required by §23-172(m). The request shall be submitted in writing and provide justification for the reduction, including estimates of parking demand or other acceptable data as approved by the Community and Economic Development Director. Sources of data may include, but are not limited to, the Institute of Transportation Engineers or Urban Land Institute. Community and Economic Development staff may approve up to a twenty percent (20%) reduction. Any reductions greater than 20% shall require a variance from the Board of Appeals.

(k) Determination of parking standards not specified. Off-street parking space requirements for a use not specifically mentioned in this chapter shall be determined by using the most similar and restrictive off-street parking space requirement as specified by the Community and Economic Development Director based on the intended use, the location of the use, and the expected patronage or use by individuals operating motor vehicles.

(l) Applicability of bicycle parking space requirements. All uses, except for single and two-family dwellings, hereafter established, reconstructed, expanded, changed in use shall provide bicycle parking spaces in accordance with the
standards set forth in this chapter, unless otherwise stated in this chapter. The Central Business District (CBD) is exempt from the bicycle parking standards.

(1) **Design requirements:**

a. **Surfacing:** Bicycle parking spaces shall be concrete, asphalt or other hard surface such as permeable pavers.

b. **Location:** Required bicycle parking spaces may be located indoors or outdoors and must be located on private property.

c. **Rack/Locker/Support Design:**

i. For each bicycle parking space required, a stationary rack(s) shall be provided which can accommodate bicyclists’ locks securing the frame and/or wheels, or a lockable enclosure in which the bicycle is stored shall be provided.

ii. All bicycle racks, lockers, or other facilities shall be securely anchored to the ground or a structure which must hold bicycles securely by means of the frame.

(m) **Required spaces for specific uses.** All vehicles connected with the following uses shall be accommodated for on the property in addition to the requirements stated below unless otherwise stated in this chapter. Additional parking as determined by the Community and Economic Development Director may be required to meet these standards. The table on the following page identifies the minimum number of off-street parking spaces to be provided.

<table>
<thead>
<tr>
<th>Use Type</th>
<th>Minimum Off-Street Parking Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
</tr>
<tr>
<td>Adult family home</td>
<td>Up to three (3) bedrooms - Two (2) spaces for each dwelling unit.</td>
</tr>
<tr>
<td></td>
<td>Four (4) or more bedrooms – Three (3) spaces for each dwelling unit.</td>
</tr>
<tr>
<td>Bed and breakfast establishment</td>
<td>Two (2) spaces for each dwelling unit plus one (1) space for each tourist room with screening approved by Community and Economic Development Director</td>
</tr>
<tr>
<td>Dwelling, multi-family</td>
<td>Up to two (2) bedrooms – One space for each dwelling unit.</td>
</tr>
<tr>
<td></td>
<td>Three (3) or more bedrooms – Two (2) spaces for each dwelling unit.</td>
</tr>
<tr>
<td></td>
<td>Visitor parking – One (1) space for every two (2) dwelling units.</td>
</tr>
<tr>
<td>Dwelling, single-family detached and zero lot line two-family dwellings</td>
<td>Up to three (3) bedrooms - Two (2) spaces for each dwelling unit</td>
</tr>
<tr>
<td></td>
<td>Four (4) or more bedrooms – Three (3) spaces for each dwelling unit</td>
</tr>
<tr>
<td>Dwelling, two-family</td>
<td>Up to three (3) bedrooms – Two (2) spaces for each dwelling unit</td>
</tr>
<tr>
<td></td>
<td>Four (4) or more bedrooms – Three (3) spaces for each dwelling unit</td>
</tr>
<tr>
<td>Residential care apartment complex</td>
<td>Up to two (2) bedrooms – One (1) space for each dwelling unit</td>
</tr>
<tr>
<td></td>
<td>Three (3) or more bedrooms – Two (2) spaces for each dwelling unit</td>
</tr>
<tr>
<td>Public/Institutional</td>
<td></td>
</tr>
<tr>
<td>Assisted living facility, nursing or convalescent home</td>
<td>One (1) space for every three (3) residents based on the maximum number of residents allowed by license.</td>
</tr>
<tr>
<td>Auditoriums, stadium, gymnasium</td>
<td>One (1) space for every five (5) persons based on maximum capacity</td>
</tr>
<tr>
<td>Bus terminal</td>
<td>One (1) space for each five hundred (500) square feet of gross floor area or one (1) space for every five (5) seats; whichever is greater</td>
</tr>
<tr>
<td>Cemetery Chapel</td>
<td>One (1) space for every six (6) persons based on maximum capacity</td>
</tr>
<tr>
<td>Club</td>
<td>One (1) space for every five (5) persons based on maximum capacity</td>
</tr>
<tr>
<td>Use Type</td>
<td>Minimum Off-Street Parking Spaces Required</td>
</tr>
<tr>
<td>----------</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td><strong>Commercial</strong></td>
<td></td>
</tr>
<tr>
<td>Amusement arcade</td>
<td>One (1) space for each five (5) persons based on maximum capacity</td>
</tr>
<tr>
<td>Automobile maintenance shop</td>
<td>Four (4) spaces for each service bay</td>
</tr>
<tr>
<td>Automobile, RV, truck, cycle, boat sales and display lot or rental lot</td>
<td>One (1) space for each four hundred (400) square feet of gross floor area under roof plus one (1) space for each two thousand (2,000) square feet of open sales lot area devoted to the sale and display of vehicles</td>
</tr>
<tr>
<td>Bar – See Tavern</td>
<td></td>
</tr>
<tr>
<td>Body repair and/or paint shop</td>
<td>Four (4) spaces for each service bay</td>
</tr>
<tr>
<td>Car wash</td>
<td>Drive-in – Six (6) stacking spaces for each washing bay</td>
</tr>
<tr>
<td></td>
<td>Self-service – Three (3) stacking spaces for each washing bay</td>
</tr>
<tr>
<td>Commercial entertainment, Indoor</td>
<td>One (1) space for each three (3) seats or one space for each two hundred (200) square feet of gross floor area whichever is greater</td>
</tr>
<tr>
<td>Commercial entertainment, Outdoor</td>
<td>One (1) space for each three (3) seats or one space for each two hundred (200) square feet of outdoor entertainment area, whichever is greater</td>
</tr>
<tr>
<td>Commercial entertainment, combination of indoor and outdoor</td>
<td>One (1) space for each three (3) seats or one space for each two hundred (200) square feet of gross floor area or outdoor entertainment area, whichever is greater</td>
</tr>
<tr>
<td>Use Type</td>
<td>Minimum Off-Street Parking Spaces Required</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Commercial</td>
<td>whichever is greater</td>
</tr>
<tr>
<td>Craft-Distillery</td>
<td>One (1) space for each three (3) persons based on maximum capacity</td>
</tr>
<tr>
<td>Day care center, adult</td>
<td>One (1) space for each employee plus one (1) space for each five (5) persons based on maximum capacity</td>
</tr>
<tr>
<td>Day care center, group</td>
<td>One (1) space for employee plus one (1) space for each five (5) children based on the maximum number of children allowed by license.</td>
</tr>
<tr>
<td>Gasoline sales</td>
<td>Two (2) spaces located at each pump.</td>
</tr>
<tr>
<td>Greenhouse/greenhouse nursery</td>
<td>One (1) space for every one thousand (1,000) gross square feet of sales area</td>
</tr>
<tr>
<td>Hotel/motel</td>
<td>One (1) space for each sleeping room plus</td>
</tr>
<tr>
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<td>Two (2) spaces located at each pump.</td>
</tr>
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<td>Greenhouse/greenhouse nursery</td>
<td>One (1) space for every one thousand (1,000) gross square feet of sales area</td>
</tr>
<tr>
<td>Hotel/motel</td>
<td>One (1) space for each sleeping room plus</td>
</tr>
<tr>
<td>Restaurants/taverns</td>
<td>One (1) space for each three (3) persons based on maximum capacity</td>
</tr>
<tr>
<td>Meeting rooms[assembly areas]</td>
<td>One (1) space for every five (5) persons based on maximum capacity</td>
</tr>
<tr>
<td>Kennel, indoor or outdoor</td>
<td>One (1) space for each employee plus one (1) space for ten (10) animals served</td>
</tr>
<tr>
<td>Marina</td>
<td>One (1) space for two (2) boat slips</td>
</tr>
<tr>
<td>Microbrewery/Brewpub</td>
<td>One (1) space for each three (3) persons based on maximum capacity</td>
</tr>
<tr>
<td>Office</td>
<td>One (1) space for each three hundred (300) square feet of gross floor area</td>
</tr>
<tr>
<td>Painting/Craft studios</td>
<td>One (1) space for each three (3) persons allowed based on maximum capacity</td>
</tr>
<tr>
<td>Personal service</td>
<td>One (1) space for each two hundred fifty (250) square feet of gross floor area</td>
</tr>
<tr>
<td>Personal storage</td>
<td>One (1) space for every five (5) rental or leasable storage units</td>
</tr>
<tr>
<td>Printing</td>
<td>One (1) space for each two hundred fifty (250) square feet of gross floor area</td>
</tr>
<tr>
<td>Professional service</td>
<td>One (1) space for each two hundred fifty (250) square feet of gross floor area</td>
</tr>
<tr>
<td>Recycling and waste recovery center</td>
<td>One (1) space for each five hundred (500) square feet of gross floor area</td>
</tr>
<tr>
<td>Restaurant</td>
<td>One (1) space for each three (3) persons allowed based on maximum capacity</td>
</tr>
<tr>
<td>Restaurant, fast food</td>
<td>One (1) space for each two (2) persons allowed based on maximum capacity</td>
</tr>
<tr>
<td>Retail business</td>
<td>One (1) space for each two hundred fifty (250) square feet of gross floor area</td>
</tr>
<tr>
<td>Sexually-oriented establishment</td>
<td>One (1) space for each three (3) persons based on maximum capacity</td>
</tr>
</tbody>
</table>
| Shopping center                      | Under 100,000 square feet of gross floor area – One (1) space for each two hundred fifty (250) square feet of gross floor area  
<p>| Restaurant, fast food                | One (1) space for each three (3) persons allowed based on maximum capacity                             |
| Retail business                      | One (1) space for each two hundred fifty (250) square feet of gross floor area                           |
| Tasting room                         | One (1) space for each three (3) persons allowed based on maximum capacity                             |
| Tavern                               | One (1) space for each three (3) persons allowed based on maximum capacity                             |
| Towing business                      | One (1) space for each employee plus sufficient space for vehicles towed                                 |
| Veterinarian clinic                  | One (1) space for each examination room plus one (1) space for each two hundred (200) square feet of gross floor area |
| Wholesale facility                   | One (1) space for each one thousand (1,000) square feet of gross floor area                             |
| Winery                               | One (1) space for each three (3) persons based on maximum capacity                                      |</p>
<table>
<thead>
<tr>
<th>Use Type</th>
<th>Minimum Off-Street Parking Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Industrial</strong></td>
<td></td>
</tr>
<tr>
<td>Asphalt plant</td>
<td>One (1) space for each employee on the largest shift</td>
</tr>
<tr>
<td>Brewery</td>
<td>One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith</td>
</tr>
<tr>
<td>Bulk flammable or combustible liquid storage or distribution facility</td>
<td>One (1) space for each employee on the largest shift</td>
</tr>
<tr>
<td>Concrete mixing</td>
<td>One (1) space for each employee on the largest shift</td>
</tr>
<tr>
<td>Distillery</td>
<td>One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith</td>
</tr>
<tr>
<td>Freight distribution or moving center</td>
<td>One (1) space for each one thousand (1,000) square feet of gross floor area</td>
</tr>
<tr>
<td>Manufacturing; custom, light or heavy</td>
<td>One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith</td>
</tr>
<tr>
<td>Research laboratory or testing facility</td>
<td>One (1) space for each five hundred (500) feet of gross floor area</td>
</tr>
<tr>
<td>Salvage yard or junk facility</td>
<td>One (1) space for each employee on the largest shift plus space to accommodate all company vehicles in connection therewith</td>
</tr>
<tr>
<td>Warehouse (storage or distribution)</td>
<td>One (1) space for each employee on the largest shift plus three (3) visitor spaces plus space to accommodate all company vehicles in connection therewith</td>
</tr>
</tbody>
</table>

(n) **Applicability of off-street loading requirements.** All uses hereafter established, reconstructed, expanded, changed in use shall provide loading spaces or loading docks in accordance with the standards set forth in this chapter, unless otherwise stated in this chapter.

(1) **Design requirements:**

a. **Size of off-street loading spaces:** Off-street loading spaces shall not be less than twelve (12) feet wide and thirty (30) feet long for commercial uses and not less than twelve (12) feet wide and sixty (60) feet long for manufacturing uses. Areas dedicated to off-street loading spaces shall be identified with pavement marking and/or signage, indicating that such space(s) are reserved for loading and unloading.

b. **Surfacing:** All off-street loading spaces shall be constructed of a durable and dustless hard surface of asphalt, concrete, or other suitable materials capable of withstanding one thousand (1,000) pounds per square inch (psi).

c. **Drainage:** All off-street loading spaces shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks, unless this requirement is waived by the Director of Public Works or their designee. On-site storm drainage shall be provided in accordance with the State Plumbing Code, City Plumbing Code, and the City Stormwater Management Ordinance.

d. **Location:** All required off-street loading spaces shall be located on the same lot as the specific use to be served. In no case shall an off-street loading space be located within the required principal building front yard setback.

e. **Screening:** Off-street loading spaces shall be screened in accordance with the following standards:

i. When abutting residentially zoned property, a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height, shall be installed to screen the entire length of the loading space from abutting residentially zoned...
property. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.

ii. When abutting non-residentially zoned properties, loading spaces shall be screened in accordance with the perimeter landscaping standards of Table 2 Parking Lot Buffering Requirements of this chapter, or with a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.

iii. When abutting a right-of-way, loading spaces shall be screened in accordance with the perimeter landscaping standards of Table 2 Parking Lot Buffering Requirements of this chapter, or with a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height. The buffer shall be installed between the loading space and the right-of-way. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.

f. Lighting: All outdoor lighting shall comply with the outdoor lighting requirements of this chapter.

g. Maneuvering: All off-street loading spaces shall be designed so that all maneuvering occurs within the property line(s). Vehicles shall not back from or into the public right-of-way when accessing off-street loading spaces.

(2) Required number of off-street loading spaces:

a. Personal services, professional services, hospitals and hotels or motels:

i. One (1) space for each ten thousand (10,000) to fifty thousand (50,000) square feet of gross floor area.

ii. Two (2) spaces for each fifty thousand (50,000) to two hundred thousand (200,000) square feet of gross floor area.

iii. One (1) additional space for each seventy-five thousand (75,000) square feet of gross floor area in excess of two hundred thousand (200,000) square feet of gross floor area.

b. Other commercial uses, warehouse and industrial uses:

i. One (1) space for each five thousand (5,000) to twenty thousand (20,000) square feet of gross floor area.

ii. Two (2) spaces for each twenty thousand (20,000) to one hundred thousand (100,000) square feet of gross floor area.

iii. One (1) additional space for each seventy-five thousand (75,000) square feet of gross floor area in excess of one hundred thousand (100,000) square feet of gross floor area.

(o) Size of stacking space. The minimum size standard for a stacking space shall be at least nine (9) feet wide by nineteen (19) feet in length.

Editor’s Note*: Article IX of Chapter 23, Off-street parking and loading was repealed and recreated by Ordinance 234-11, adopted by Council on December 21, 2011, published on December 26, 2011 and became effective on December 27, 2011.

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ARTICLE X. FLOODPLAIN ZONING

DIVISION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS.

Sec. 23-201. Statutory authorization.

This ordinance is adopted pursuant to the authorization in §62.23, for villages and cities, and the requirements in §87.30, Stats.
(Ord 54-06, §1, 3-21-06)


Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.
(Ord 54-06, §1, 3-21-06)

Sec. 23-203. Statement of purpose.

This ordinance is intended to regulate floodplain development to:

(a) Protect life, health and property;
(b) Minimize expenditures of public funds for flood control projects;
(c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
(d) Minimize business interruptions and other economic disruptions;
(e) Minimize damage to public facilities in the floodplain;
(f) Minimize the occurrence of future flood blight areas in the floodplain;
(g) Discourage the victimization of unwary land and homebuyers;
(h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
(i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
(Ord 54-06, §1, 3-21-06)

Sec. 23-204. Title.

This ordinance shall be known as the Floodplain Zoning Ordinance for Appleton, Wisconsin.
(Ord 54-06, §1, 3-21-06)

Sec. 23-205. Definitions.

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word “may” is permissive, “shall” is mandatory and is not discretionary.

A Zones. Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

Supp. #92
Accessory structure or use. A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

Base flood. Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement. Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

Building. See Structure.

Bulkhead line. A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to §30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

Campground. Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

Camping unit. Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including, but not limited to, a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

Certificate of Compliance. A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

Channel. A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Crawlways or Crawl space. An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for access to plumbing and electrical utilities.

Deck. An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

Department. The Wisconsin Department of Natural Resources.

Development. Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Dryland access. A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

Encroachment. Any fill, structure, equipment, building, use or development in the floodway.

Existing manufactured home park or subdivision. A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

Expansion to existing mobile/manufactured home park. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring if concrete pads.
Federal Emergency Management Agency (FEMA). The federal agency that administers the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM). A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

(a) The overflow or rise of inland waters,

(b) The rapid accumulation or runoff of surface waters from any source,

(c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or

(d) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Flood frequency. The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.

Floodfringe. That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

Flood hazard boundary map. A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

Flood insurance study. A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

Floodplain. Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

Floodplain island. A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain management. Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Flood profile. A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Floodproofing. Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

Flood protection elevation. An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: Freeboard.)
**Flood storage.** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

**Floodway.** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

**Freeboard.** A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

**Habitable structure.** Any structure or portion thereof used or designed for human habitation.

**Hearing notice.** Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

**High flood damage potential.** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

**Historic structure.** Any structure that is either:

(a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

**Increase in regional flood height.** A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

**Land use.** Any nonstructural use made of unimproved or improved real estate. (Also see Development.)

**Manufactured home.** A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term “manufactured home” includes a mobile home but does not include a “mobile recreational vehicle”.

**Mobile recreational vehicle.** A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of “mobile recreational vehicles”.

**Municipality or municipal.** The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

NGVD or National Geodetic Vertical Datum. Elevations referenced to mean sea level datum, 1929 adjustment.

New construction. For floodplain management purposes, “new construction” means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

Nonconforming structure. An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

Nonconforming use. An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

Obstruction to flow. Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

Official floodplain zoning map. That map, or collection of maps, adopted and made part of this ordinance, as described in §23-206(b), which has been approved by the Department and FEMA.

Open space use. Those uses having a relatively low flood damage potential and not involving structures.

Ordinary high water mark. The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

Person. An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

Private sewage system. A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

Public utilities. Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

Reasonably safe from flooding. Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Regional flood. A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
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For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure.** Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

**Subdivision.** Has the meaning given in §236.02(12), Wis. Stats.

**Substantial damage.** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent (50%) of the equalized assessed value of the structure before the damage occurred.

**Unnecessary hardship.** Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

**Variance.** An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

**Violation.** The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

**Watershed.** The entire region contributing runoff or surface water to a watercourse or body of water.

**Water surface profile.** A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

**Well.** An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(Ord 54-06, §1, 3-21-06; Ord 19-09, §1, 1-13-09; Ord 106-10, §1, 7-13-10)

Sec. 23-206. General provisions.

(a) **Areas to be regulated.** This ordinance regulates all areas that would be covered by the regional flood or base flood.

**Note:** Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

(b) **Official maps and revisions.** The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Appleton Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE’s) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Division of Inspections of the Department of Public Works for the City of Appleton. If more than one map or revision is referenced, the most restrictive information shall apply.

(1) **Official maps based on the FIS:**

a. Calumet County Flood Insurance Rate Map (FIRM), panel numbers 55015C0007E, 55015C0026E and 55015C0027E dated February 4, 2009; with corresponding profiles that are based on the Calumet County Flood Insurance Study (FIS), dated February 2009, volume number 55015CV000A.
b. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0304E, and 55087C0308E dated January 20, 2016; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated January 20, 2016, volume number 55087CV000B.

c. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0309D, 55087C0314D, 55087C0316D, 55087C0317D, 55087C0318D, 55087C0319D, 55087C0330, 55087C0338D, 55087C0427D, 55087C0431D and 55087C451D dated July 22, 2010; with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A.

d. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0328D, 55087C0329D, 55087C0336D, 55087C0337D dated July 22, 2010 and revised August 23, 2013 with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A, all revised and annotated pursuant to FEMA Letter of Map Revision Determination Document Case No: 12-05-6032P, Issue Date April 10, 2013, Effective Date August 23, 2013.

e. LOMR – Case #11-05-7670P, Floodway and Floodplain revisions between Flood Insurance Study (FIS) Cross Section AW to BA, Outagamie County Flood Insurance Rate Map (FIRM) panels 55087C0318D and 55087C0319D, dated July 22, 2010. This reflects changes on the Fox River from just downstream of the Private Middle Dam to approximately 250 feet upstream of the Appleton Upper Dam.

f. LOMR – Case #13-05-7920P, Floodplain revisions between Flood Insurance Study (FIS) Cross Section AN to AM, Outagamie County Flood Insurance Rate panels 55087C0319D, dated July 22, 2010. This reflects changes along the south side of the Fox River from the College Avenue Bridge to approximately 850 feet downstream.

g. City of Appleton Kensington Pond Dam Break Analysis Hydraulic Shadow, Per Figure F-9 of Dam Failure Analysis and Assignment of the Hazard Rating for Kensington Pond Dam, by Earth Tech, dated January 2008, on file with City of Appleton Department of Public Works.

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.

2. The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.

3. The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.
(4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(d) **Locating floodplain boundaries.** Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (1) or (2) below. If a significant difference exists, the map shall be amended according to Division 8. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to §23-293(c) and the criteria in (1) and (2) below.

(1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

(2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection, field topographic survey, and any information provided by the Department.

*Note:* Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to §23-305(f).

(e) **Removal of lands from floodplain.** Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Division 8.

*Note:* This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

(f) **Compliance.** Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(g) **Municipalities and state agencies regulated.** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if §13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when §30.2022, Stats., applies.

(h) **Abrogation and greater restrictions.**

(1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under §62.23, Stats. which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) **Interpretation.** In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(j) **Warning and disclaimer of liability.** The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.
(k) **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(l) **Annexed areas for cities and villages.** The Calumet, Outagamie and Winnebago Counties floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(m) **General development standards.** The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodplain area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

Secs. 23-207 – 23-220. Reserved.
DIVISION 2. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

Sec. 23-221. Hydraulic and hydrologic analyses.

(a) Except as allowed in par. (c) below, no floodplain development shall:

(1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or

(2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

(b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (c) are met.

(c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Division 8.

Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR, as appropriate. (Ord 54-06, §1, 3-21-06)

Sec. 23-222. Watercourse alterations.

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. It shall be the responsibility of the person altering the watercourse, to provide the technical or scientific data necessary, to the Zoning Administrator. All data shall be prepared and submitted by a Wisconsin licensed engineer.

As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required. (Ord 54-06, §1, 3-21-06)

Sec. 23-223. Chs. 30, 31 Wis. Stats., development.

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to Division 8.0. (Ord 54-06, §1, 3-21-06)

Sec. 23-224. Public or private campgrounds.

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

(a) The campground is approved by the Department of Health Services.

(b) A land use permit for the campground is issued by the zoning administrator.

(c) The character of the river system and the elevation of the campground is such that a seventy-two (72-) hour warning of an impending flood can be given to all campground occupants.

(d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood
elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.

(e) This agreement shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (d) to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations.

(f) Only camping units are allowed.

(g) The camping units may not occupy any site in the campground for more than one hundred eighty (180) consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of twenty-four (24) hours.

(h) All camping units that remain on site for more than thirty (30) days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty (180) days and shall ensure compliance with all the provisions of this section.

(i) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.

(j) All camping units that remain in place for more than one hundred eighty (180) consecutive days must meet the applicable requirements in either Division 3 or Division 4 for the floodplain district in which the structure is located.

(k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.

(l) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

(Ord 54-06, §1, 3-21-06; Ord 108-10, §1, 7-13-10; Ord 109-10, §1, 7-13-10)

DIVISION 3. FLOODWAY DISTRICT (FW)

Sec. 23-236. Applicability.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to §23-266(d).
(Ord 54-06, §1, 3-21-06)

Sec. 23-237. Permitted uses.

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by any other ordinance; they meet the standards in §23-238 and 23-239; and all permits or certificates have been issued according to §23-291:

(a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of §23-238(d).

(d) Uses or structures accessory to open space uses, or classified as historic structures that comply with §23-238 and §23-239.

(e) Extraction of sand, gravel or other materials that comply with §23-238(d).

(f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31, Stats.

(g) Public utilities, streets and bridges that comply with §23-238(c).
(Ord 54-06, §1, 3-21-06)

Sec. 23-238. Standards for developments in floodway areas.

(a) General.

(1) Any development in floodway areas shall comply with Division 2 and have a low flood damage potential.

(2) Applicants shall provide the following data to determine the effects of the proposal according to §23-221.

a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

b. An analysis calculating the effects of this proposal on regional flood height.

(3) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (2) above.

(b) Structures. Structures accessory to permanent open space uses, classified as historic structures, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

(1) The structures are not designed for human habitation and do not have a high flood damage potential;

(2) The structures are constructed and placed on the building site so as to increase flood heights less than 0.01 foot and minimally obstruct the flow of floodwaters. Structures shall be constructed with the long axis parallel to the flow of floodwaters and on the same line as adjoining structures;
(3) The structures are properly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and

(4) The structures have all service facilities at or above the flood protection elevation.

(c) Public utilities, streets and bridges. Public utilities, streets and bridges may be allowed by permit, if:

(1) Adequate floodproofing measures are provided to the flood protection elevation; and

(2) Construction meets the development standards of §23-221.

(d) Fills or deposition of materials. Fills or deposition of materials may be allowed by permit, if:

(1) The requirements of §23-221 are met;

(2) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;

(3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(4) The fill is not classified as a solid or hazardous material.

(Ord 54-06, §1, 3-21-06)

Sec. 23-239. Prohibited uses.

All uses not listed as permitted uses in §23-237 are prohibited, including the following uses:

(a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

(b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code.

(e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(f) Any solid or hazardous waste disposal sites;

(g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;

(h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

(Ord 54-06, §1, 3-21-06; Ord 25-12, §1, 3-7-12)

DIVISION 4. FLOODFRINGE DISTRICT (FF)

Sec. 23-251. Applicability.

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to §23-266(d).
(Ord 54-06, §1, 3-21-06)

Sec. 23-252. Permitted uses.

Any structure, land use, or development is allowed in the floodfringe district if the standards in §23-253 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in §23-291 have been issued.
(Ord 54-06, §1, 3-21-06)

Sec. 23-253. Standards for development in floodfringe areas.

Section 23-221 shall apply in addition to the following requirements according to the use requested.

(a) Residential uses. Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards:

1. The elevation of the lowest floor, excluding the basement or crawlspace, shall be at or above the flood protection elevation on fill. The fill shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical and the Board of Appeals grants a variance;

2. The basement or crawlspace floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlspace floor is allowed below the regional flood elevation;

3. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (4).

4. In developments where existing street or sewer line elevations make compliance with par. (3) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
   a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
   b. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(b) Accessory structures or uses.

1. Except as provided in par. (2), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

2. An accessory structure which is not connected to the principal structure and which is less than six hundred (600) square feet in size and valued at less than ten thousand dollars ($10,000) may be constructed with its lowest floor no more than two (2) feet below the regional flood elevation if it is subject to flood velocities of no more than two (2) feet per second and it meets all of the provisions of Secs. 23-238(b) (1), (2), (3), (4) and sub. (e) below.
(c) **Commercial uses.** Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of §23-253(a). Subject to the requirements of sub. (f), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) **Manufacturing and industrial uses.** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in §23-295. Subject to the requirements of sub. (f), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) **Storage of materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with §23-295. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(f) **Public utilities, streets and bridges.** All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

1. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with §23-295 to the flood protection elevation;

2. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(g) **Sewage systems.** All on-site sewage disposal systems shall be floodproofed, pursuant to §23-295, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(h) **Wells.** All wells shall be floodproofed, pursuant to §23-295, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(i) **Solid waste disposal sites.** Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(j) **Deposition of materials.** Any deposited material must meet all the provisions of this ordinance.

(k) **Manufactured homes.** Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

1. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
   a. Have the lowest floor elevated to the flood protection elevation; and
   b. Be anchored so they do not float, collapse or move laterally during a flood.

2. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in §23-253(a).

(l) **Mobile recreational vehicles.** All mobile recreational vehicles that are on site for one hundred eighty (180) consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in §23-253(k)(2). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(Ord 54-06, §1, 3-21-06; Ord 110-10, §1, 7-13-10; Ord 25-12, §1, 3-7-12)

DIVISION 5. OTHER FLOODPLAIN DISTRICTS

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

Sec. 23-266. General floodplain district (GFP).

(a) Applicability. The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and flood fringe districts shall be delineated when adequate data is available.

(b) Permitted uses. Pursuant to §23-266(d), it shall be determined whether the proposed use is located within a floodway or flood fringe area. Those uses permitted in floodway (§23-237) and flood fringe areas (§23-252) are allowed within the general floodplain district, according to the standards of §23-266(c), provided that all permits or certificates required under §23-291 have been issued.

(c) Standards for development in the general floodplain district. Division 3 applies to floodway areas, Division 4 applies to flood fringe areas. The rest of this ordinance applies to either district.

(d) Determining floodway and flood fringe limits. Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

1. Require the applicant to submit two (2) copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;

2. Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
   a. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
   b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
   c. Profile showing the slope of the bottom of the channel or flow line of the stream;
   d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

3. Transmit one copy of the information described in pars. (a) and (b) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of §23-291(b)(3) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

(Ord 54-06, §1, 3-21-06)

Sec. 23-267. Flood storage district.

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.
(a) **Applicability.** The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

(b) **Permitted uses.** Any use or development which occurs in a flood storage district must meet the applicable requirements in §23-253.

(c) **Standards for development in flood storage districts.**

(1) Development in a flood storage district shall not cause an increase equal or greater than 0.01 of a foot in the height of the regional flood.

(2) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.

(3) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without flood plain storage, as per §23-305 of this ordinance.

(4) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

(Ord 54-06, §1, 3-21-06)

**Secs. 23-268 – 23-280. Reserved.**
DIVISION 6. NONCONFORMING USES.

Sec. 23-281. General.

(a) **Applicability.** If these standards conform with s. 62.23(7)(h), Stats., they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

1. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words “modification” and “addition” include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

   The construction of a deck that does not exceed two hundred (200) square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

2. If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;

3. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure’s total current value those modifications represent;

   NOTE: Documentation is only required for modifications made to nonconforming structures and uses located in the floodplain.

4. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with §23-253(a). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the fifty percent (50%) provisions of this paragraph;

5. a. Except as provided in subd. b, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty percent (50%) of the structure’s present equalized assessed value.

   b. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.

6. A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with §23-238(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with §23-295 are used.

(Ord 54-06, §1, 3-21-06; Ord 21-09, §1, 1-13-09)
Sec. 23-282. Floodway areas.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

(1) Has been granted a permit or variance which meets all ordinance requirements;
(2) Meets the requirements of §23-281;
(3) Will not increase the obstruction to flood flows or regional flood height; and
(4) Any addition to the existing structure shall be floodproofed, pursuant to §23-295, by means other than the use of fill, to the flood protection elevation.
(5) Mechanical and utility equipment must be elevated to or above the flood protection elevation.
(6) It must not obstruct the flow of flood waters or cause an increase in flood levels during the occurrence of the regional flood; and
(7) It's use must be limited to parking and/or limited storage.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. SPS 383, Wis. Adm. Code.

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

Ord 54-06, §1, 3-21-06 ; Ord 25-12, §1, 3-7-12)

Sec. 23-283. Floodfringe areas.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in §23-253, except where §23-283(b) is applicable.

(b) Where compliance with the provisions of par. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in §23-293, may grant a variance from those provisions of par. (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

(1) No floor is allowed below the regional flood elevation for residential or commercial structures;
(2) Human lives are not endangered;
(3) Public facilities, such as water or sewer, will not be installed;
(4) Flood depths will not exceed two (2) feet;
(5) Flood velocities will not exceed two (2) feet per second; and
(6) The structure will not be used for storage of materials as described in §23-253(e).
(c) If neither the provisions of par. (a) or (b) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe, if the addition:

1. Meets all other regulations and will be granted by permit or variance;
2. Does not exceed sixty (60) square feet in area; and
3. In combination with other previous modifications or additions to the building, does not equal or exceed fifty percent (50%) of the present equalized assessed value of the building.

(d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

Sec. 23-284. Flood storage areas.

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in §23-267(c) are met.

DIVISION 7. ADMINISTRATION

Where a zoning administrator, planning agency or a Board of Appeals has already been appointed to administer a zoning ordinance adopted under §62.23(7), Stats., these officials shall also administer this ordinance.
(Ord 54-06, §1, 3-21-06)

Sec. 23-291. Zoning administrator.

(a) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

(1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(2) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.

(3) Shall cause to be inspected, all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

(4) Keep records of all official actions such as:

   a. All permits issued, inspections made, and work approved;

   b. Documentation of certified lowest floor and regional flood elevations for floodplain development;

   c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.

   d. All substantial damage assessment reports for floodplain structures.

(5) Submit copies of the following items to the Department Regional office:

   a. Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

   b. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.

   c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

      Note: Information on conducting substantial damage assessments is available on the DNR website:  http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm

(6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(7) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(b) Land use permit. A land use permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(1) General information.

   a. Name and address of the applicant, property owner and contractor;
ZONING

b. Legal description, proposed use, and whether it is new construction or a modification;

(2) Site development plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

a. Location, dimensions, area and elevation of the lot;

b. Location of the ordinary highwater mark of any abutting navigable waterways;

c. Location of any structures with distances measured from the lot lines and street centerlines;

d. Location of any existing or proposed on-site sewage systems or private water supply systems;

e. Location and elevation of existing or future access roads;

f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

h. Data sufficient to determine the regional flood elevation in NGVD, or NAVD at the location of the development and to determine whether or not the requirements of Division 3 or Division 4 are met; and

i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to §23-221. This may include any of the information noted in §23-238(a).

(3) Data requirements to analyze developments.

a. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as “subdivision” is defined in §236, Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds $125,000. The applicant shall provide:

i. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;

ii. A map showing location and details of vehicular access to lands outside the floodplain; and

iii. A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(4) Expiration. All permits issued under the authority of this ordinance shall expire three hundred sixty-five (365) days after issuance.

(c) Certificate of compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

(1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;

(2) Application for such certificate shall be concurrent with the application for a permit;
(3) If all ordinance provisions are met, the certificate of compliance shall be issued within ten (10) days after written notification that the permitted work is completed;

(4) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that floodproofing measures meet the requirements of §23-295.

(d) Other permits. The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under §404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

(e) Compliance. Where the information in this section is required to be provided, that information will be gathered by the applicant complying with the building permit requirements of Chapter 4, the site plan requirements of Chapter 23, and the stormwater requirements of Chapter 20 of the Appleton Municipal Code.

Sec. 23-292. Zoning agency.

(a) The Director of Public Works shall:

(1) Oversee the functions of the office of the zoning administrator; and

(2) Review and advise the Governing body on all proposed amendments to this ordinance, maps and text.

(b) This Director of Public Works shall not

(1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or

(2) Amend the text or zoning maps in place of official action by the governing body.

Sec. 23-293. Board of appeals.

The Board of Appeals, created under §62.23(7)(e), Stats., is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

(a) Powers and duties. The Board of Appeals shall:

(1) Appeals. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

(2) Boundary disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map, described in §23-206.

(3) Variances. Hear and decide, upon appeal, variances from the ordinance standards.

(b) Appeals to the board.

(1) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within thirty (30) days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(2) Notice and hearing for appeals including variances.
a. **Notice.** The Board shall:

   i. Fix a reasonable time for the hearing;

   ii. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;

   iii. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least ten (10) days in advance of the hearing.

b. **Hearing.** Any party may appear in person or by agent. The Board shall:

   i. Resolve boundary disputes according to §23-293(c).

   ii. Decide variance applications according to §23-293(d).

   iii. Decide appeals of permit denials according to §23-294.

(3) **Decision.** The final decision regarding the appeal or variance application shall:

   a. Be made within a reasonable time;

   b. Be sent to the Department Regional office within ten (10) days of the decision;

   c. Be a written determination signed by the chairman or secretary of the Board;

   d. State the specific facts which are the basis for the Board’s decision;

   e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

   f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) **Boundary disputes.** The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

   (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

   (2) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.

   (3) If the boundary is incorrectly mapped, the Board should inform the Engineering Division of the Department of Public Works or the person contesting the boundary location to petition the governing body for a map amendment according to Division 8.

(d) **Variance.**

   (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

   a. Literal enforcement of the ordinance provisions will cause unnecessary hardship;

   b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
c. The variance is not contrary to the public interest; and

d. The variance is consistent with the purpose of this ordinance in §23-203.

(2) In addition to the criteria in par. (1), to qualify for a variance under FEMA regulations, the following criteria must be met:

a. The variance may not cause any increase in the regional flood elevation;

b. Variances can only be granted for lots that are less than one-half (½) acre and are contiguous to existing structures constructed below the RFE;

c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(3) A variance shall not:

a. Grant, extend or increase any use prohibited in the zoning district.

b. Be granted for a hardship based solely on an economic gain or loss.

c. Be granted for a hardship which is self-created.

d. Damage the rights or property values of other persons in the area.

e. Allow actions without the amendments to this ordinance or map(s) required in §23-305.

f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

(Ord 54-06, §1, 3-21-06)

Sec. 23-294. To review appeals of permit denials.

(a) The Director of Public Works, or designee, or Board shall review all data related to the appeal. This may include:

   (1) Permit application data listed in §23-291(b).

   (2) Floodway/floodfringe determination data in §23-266(d).

   (3) Data listed in §23-238(a)(2)b. where the applicant has not submitted this information to the zoning administrator.

   (4) Other data submitted with the application, or submitted to the Board with the appeal.

(b) For appeals of all denied permits the Board shall:

   (1) Follow the procedures of §23-293;

   (2) Consider recommendations from the City departments of Inspections Engineering and Community and Economic Development; and

   (3) Either uphold the denial or grant the appeal.

(c) For appeals concerning increases in regional flood elevation the Board shall:
(1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

(2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

(Ord 54-06, §1, 3-21-06)

Sec. 23-295. Floodproofing.

(a) No permit or variance shall be issued until the applicant submits a plan certified by a professional engineer or architect registered in Wisconsin that the floodproofing measures will protect the structure or development to the flood protection elevation.

(b) Floodproofing measures shall be designed to:

(1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(2) Protect structures to the flood protection elevation;

(3) Anchor structures to foundations to resist flotation and lateral movement; and

(4) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

(c) Floodproofing measures could include:

(1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.

(2) Adding mass or weight to prevent flotation.

(3) Placing essential utilities above the flood protection elevation.

(4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.

(5) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.

(6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

(Ord 54-06, §1, 3-21-06)

Sec. 23-296. Public information.

(a) Where useful, place marks on structures to show the depth of inundation during the regional flood.

(b) Maps, engineering data and regulations shall be available and available for distribution.

(c) All real estate transfers shall show what floodplain zoning district any real property is in.

(Ord 54-06, §1, 3-21-06)

DIVISION 8. AMENDMENTS

Sec. 23-305. General.

The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

(a) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.

(b) Correction of discrepancies between the water surface profiles and floodplain zoning maps.

(c) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.

(d) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.

(e) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.

(f) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Note: Consult the FEMA web site - www.fema.gov - for the map change fee schedule.

(Ord 54-06, §1, 3-21-06)

Sec. 23-306. Procedures.

Ordinance amendments may be made upon petition of any interested party according to the provisions of §62.23, Stats. Such petitions shall include all necessary data required by §23-266(d) and §23-291(b).

(a) The proposed amendment shall be referred to the Community and Economic Development Department or Inspections Division of the Department of Public Works for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of §62.23, Stats.

(b) No amendments shall become effective until reviewed and approved by the Department.

(c) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(d) For amendments in areas with no water surface profiles, the City Plan Commission shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See §23-206(a))

(Ord 54-06, §1, 3-21-06)

DIVISION 9. ENFORCEMENT AND PENALTIES

Sec. 23-311. General.

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violations. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than fifty dollars ($50.00), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.
(Ord 54-06, §1, 3-21-06; Ord 113-10, §1, 7-13-10)

Secs. 23-312 – 23-325. Reserved.

*Editor’s Note*: Article X of Chapter 23, Floodplain Zoning was repealed and recreated by Ordinance 54-06, adopted by Council on March 15, 2006, published on March 20, 2006 and became effective on March 21, 2006.
ARTICLE XI. SHORELAND/WETLANDS REGULATIONS

Reserved for future shoreland/wetland regulations.

ARTICLE XII. SEXUALLY-ORIENTED ESTABLISHMENTS

Sec. 23-390. Purpose.

The Common Council finds that, due to their nature, the existence of sexually-oriented establishments in the City has serious objectionable operational characteristics, such as an effect upon property values, local commerce and crime. Due to the deleterious combined effect on adjacent areas when such uses are concentrated, they should not be permitted to be located in close proximity to each other. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. Such regulations are contained in these standards. These standards are designed to protect the City’s retail trade, maintain property values, prevent crime, and in general, protect and preserve the quality of the City’s neighborhoods, commercial districts and the quality of urban life.

It is not the intent of this article to limit or restrict the content of communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this article to restrict or deny access by adults to materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(Ord 213-11, §1, 9-27-11)

Sec. 23-391. General standards for sexually-oriented establishments.

(a) Standards. A sexually-oriented establishment may be permitted as a special use in the C-2 General Commercial District, M-1 Industrial Park District and M-2 General Industrial District provided that:

1. Such use shall not be located within five hundred (500) feet of any residentially zoned property;
2. Such use shall not be located within five hundred (500) feet of a public or private educational institution, place of worship, club, park or playground, non-profit recreational facility, child day care center or hotel/motel;
3. Such use shall not be located within five hundred (500) feet of an establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor;
4. Such use shall not be located within one thousand (1,000) feet of another sexually-oriented establishment;
5. No sexually-oriented establishment shall be open between the hours of 2 a.m. and 8 a.m., Monday through Friday, between the hours of 3 a.m. and 8 a.m. on Saturdays or between the hours of 3 a.m. and 12 noon on Sundays;
6. Any sexually-oriented establishment having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment shall be regulated by the following with each booth, room or cubicle required to meet the following construction requirements:
   a. Be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall;
   b. Shall be totally accessible to and from aisles and public areas of the sexually-oriented establishment;
   c. Shall be unobstructed by any door, lock or other control-type devices;
   d. Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same;
   e. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable;
   f. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable;
   g. The lighting level shall be a minimum of ten (10) foot candles at all times, as measured from the floor.

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(7) Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth.

(8) No sexually-oriented establishment shall be situated in such a manner as to allow public view of its stock in trade, advertisements, displays, promotional materials, screens, loudspeakers, sound equipment, videos, an adult motion picture theater, whether enclosed or drive-in, photographs or other forms of sexually-oriented entertainment shall be shown, seen, heard, discerned or exhibited from outside of the establishment.

(9) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone numbers, date of employment and termination. This information on each employee shall be maintained in the register on the premises for a period of one (1) year following termination of the employee and shall be made immediately available for inspection by the Appleton Police Department and/or the Health Department of the City of Appleton.

(10) No portion of the exterior of an sexually-oriented establishment shall utilize or contain any flashing lights, search lights, spot lights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically permitted pursuant to the Signs article as identified in this ordinance.

(11) An applicant shall not reside with a person who has been denied a permit by the City to operate a sexually-oriented establishment within the preceding twelve (12) months, or shall not reside with a person whose permit to operate an sexually-oriented establishment has been revoked within the preceding twelve (12) months.

(12) An applicant must be eighteen (18) years of age or older.

(13) Further standards may be established as part of the special use permit process on a case-by-case basis for sexually-oriented establishment.

(b) Application of Distance Standards: The distances provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the lot upon which the proposed use is to be located, to the nearest point of the zoning district boundary line or the lot from which the proposed use is to be separated.

(Ord 213-11, §1, 9-27-11)

Sec. 23-392. Standard conditions of approval.

(a) In addition to complying with §23-66 Special use permits of this ordinance the following shall also apply:

(1) The premises to be used for the sexually-oriented establishment shall be inspected and found to be in compliance with all applicable laws and ordinances by the City of Appleton’s Health Department, Fire Department and Inspections Supervisor.

(2) The applicant shall, within thirty (30) days after the issuance of the Special Use Permit referred to herein, deliver to the Community and Economic Development Director, or designee, a list containing the names and addresses of all employees. The applicant shall update the list within thirty (30) days of any change or addition of employees. This list, or update, shall be signed, under oath, by the applicant.

(3) The fact that a person possesses other types of state or county permits does not exempt that individual from the requirement of obtaining a City-issued sexually-oriented establishment Special Use Permit.

(4) An applicant shall pay any unpaid City of Appleton taxes, fees, fines, or penalties assessed against or imposed upon them in relation to a sexually-oriented establishment prior to the issuance of a Special Use Permit.

(5) The Special Use Permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually-oriented business. The permit shall be posted in a
conspicuous place at or near the entrance to the sexually-oriented business so that it may be easily read at any time.

(6) An applicant of the proposed establishment shall not be in violation of, or not in compliance with, any of the provisions of this zoning ordinance including any stipulations or conditions of approval of the Special Use Permit.

(7) An applicant shall not transfer a sexually-oriented entertainment permit to another person, corporation or entity, nor shall an applicant operate a sexually-oriented establishment under the authority of a permit any place other than the address designated in the application.

Ord 213-11, §1, 9-27-11

Sec. 23-393. Application requirements.

(a) In addition to §23-66 Special Use Permits of this ordinance the following shall be provided:

(1) An application for a Special Use Permit must be made on a form provided by the Community and Economic Development Department. The application must be accompanied by a site plan pursuant to §23-570, Site plan review.

(2) If a person who wishes to operate a sexually-oriented establishment is an individual, he/she must sign the application for a Special Use Permit as the applicant. If a person who wishes to operate a sexually-oriented establishment is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a Special Use Permit as applicant.

(3) An applicant shall provide information reasonably necessary for issuance of the permit or shall not falsely answer a question or request for information on the application form.

(4) The Special Use Permit fee required by this ordinance shall be paid at time of application.

Ord 213-11, §1, 9-27-11

23-394. Enforcement.

(a) In addition to this section, §23-69 Enforcement of this ordinance shall apply.

(b) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any City ordinance or statute of the State of Wisconsin regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter in the exhibition or public display thereof.

(c) A person shall be deemed to have committed a violation of this ordinance if he/she operates a sexually-oriented establishment without a valid Special Use Permit issued by the City for the particular type of business.

(d) Public nuisance. Any violation of the standards set forth in subsection (b) above is declared to be a public nuisance pursuant to §12-30(19) of the Appleton Municipal Code.

(e) Inspection.

(1) An applicant shall permit representatives of the City of Appleton Community and Economic Development Department, Police Department, the Fire Department, the Division of Inspections, or other City departments or agencies to inspect the premises of a sexually-oriented establishment for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2) A person who operates a sexually-oriented business or his/her agent or employee commits a violation of this ordinance if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

Ord 213-11, §1, 9-27-11

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ARTICLE XIII. WIRELESS TELECOMMUNICATIONS FACILITIES

Sec. 23-420. Purpose.

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, these regulations are necessary in order to:

(a) Facilitate the provision of wireless telecommunication services to the residents and businesses of the City;

(b) Minimize adverse visual effects of towers through careful design and siting standards;

(c) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;

(d) Maximize the use of existing towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community and encourage co-location; and,

(e) Encourage the location of towers in non-residential areas and minimize the total number of towers throughout the City.

Sec. 23-421. Definitions.

As used in this section of the zoning ordinance, the following terms shall have the meanings indicated:

**Antenna** means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunications signals, including, but not limited to, directional antennas, such as panel(s), microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

**Co-location** means the location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.

**FAA** means the Federal Aviation Administration.

**FCC** means the Federal Communications Commission.

**Height** means when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

**Personal communications service (PCS)** means a provider of personal wireless service facilities as now defined in Section 704 of the Telecommunications Act of 1996, 47 U.S.C. par. 332, and as the same may be amended from time to time.

**Personal wireless facilities** means transmitters, antenna structures and other types of installations used to provide personal wireless services.

**Pre-existing towers** shall have the meaning set forth in §23-422 of this chapter.

**Tower** means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes personal communication service towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

**Tower site** means the area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing and other items used in connection with said tower.
APPLETON CODE

Wireless telecommunication services means licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

Sec. 23-422. Special use permit requirements.

(a) A telecommunication antenna system that requires construction of a new tower or co-location on an existing tower not previously granted a special use permit will require the petitioner to apply for a special use permit.

(b) Exceptions to a special use permit would apply to the following circumstances, subject to application for a building permit:

1. Water towers or other municipally owned structures, provided a license or lease authorizing such antenna has been approved by the Common Council;

2. Structures in the Central Business District zoning in excess of four (4) stories (seventy (70) plus feet);

3. Pre-existing tower that was granted a special use permit prior to the effective date of this ordinance.

(Ord 54-20, §1, 3-24-20)

Sec. 23-423. Building permit requirements.

(a) A building permit shall be required prior to commencement of work on any antennas or supporting structures exceeding sixty (60) feet in height. Application for a building permit shall be made to the Inspections Supervisor by the owner or the owner’s authorized representative. A building permit shall be issued by the administrator when all the following requirements are met. All plans, calculations, and specifications shall be dated. Plan submittal shall include the state plan approval application (SBD 118) or equivalent, plus the following information:

1. Except as provided below, all plans, calculations and specifications shall be prepared, signed and sealed by an architect or engineer registered in Wisconsin. Plans, calculations and specifications shall show compliance with all state and local codes. Exception: Plans, calculations and specifications may be prepared by an architect or engineer registered outside the State of Wisconsin provided (1) the plans, calculations and specifications shall bear the signature and seal or stamp of a registered architect or engineer; and

2. A certificate dated, signed and sealed by an architect or engineer registered in Wisconsin is attached to the plans, calculations and specifications. The certificate shall indicate the plans, calculations and specifications were prepared in a state other than Wisconsin by an architect or professional engineer registered in that state, describe the work performed by the Wisconsin registered architect or engineer, and include statements to the effect that plans and specifications have been reviewed and comply with all applicable local and state building codes, and the reviewing architect or engineer will be responsible for the supervision of construction. When antennas and supporting towers are submitted to the state for examination, two (2) sets of plans bearing the state approval stamp and copies of all approval correspondence shall be included with submittals to the Inspections Supervisor.

3. Plan submittal shall include an intermodulation study that provides technical evaluation of existing and proposed transmissions and indicates all potential interference problems. No new telecommunications service shall interfere with public safety telecommunications.

4. Construction or installation of antennas or supporting structures exceeding sixty (60) feet in height shall be supervised by a Wisconsin registered architect or engineer in the manner called out in the Wisconsin Building Code ILHR 50.10. A compliance statement shall be provided by the supervising professional upon completion of the project.

5. Plans must describe tower height and design, including a cross-section and evaluation. The plans shall also describe the number, height and mounting positions for co-location antennas.
(b) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of a tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

Sec. 23-424. Tower/structure design requirements.

All towers constructed after September 17, 1997 or wireless telecommunication antennas affixed to buildings shall comply with the following requirements:

(a) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.

(b) Wireless telecommunication service towers shall be of a monopole design unless the City determines that an alternative design would better blend into the surrounding environment.

(c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(d) The placement of wireless telecommunication antennas on roofs or walls shall include submittal of a report prepared by a qualified and licensed professional engineer indicating the existing structure’s suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(e) Towers shall not be artificially lighted, unless required by the FAA or the City. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.

(f) Towers shall be set back a distance equal to the height of the tower from any residential structure.

(g) Towers, guy wires and accessory facilities must satisfy the minimum zoning district setback requirements.

(h) Tower sites shall be enclosed by security fencing and shall be equipped with an appropriate anti-climbing device sufficient to deter the general public from obtaining access to the site.

(i) The following site plan review requirements shall govern landscaping surrounding towers:

1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower site from adjacent property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the security fencing.

2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.

3. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

(j) The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(k) All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment. Site plan review per §23-570, Site plan review and approval, shall be required for these types of buildings.

(l) All towers shall be shielded, filtered and grounded to meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal and State government with the authority to regulate towers and antennas so as to minimize the possibility of interference with locally received transmissions.
Sec. 23-425. Co-location requirements.

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Inspections Supervisor that no existing tower or structure can accommodate the applicant’s proposed antenna. Evidence must be submitted to demonstrate that the telecommunications equipment cannot be accommodated on an existing or approved tower or building within a one (1) mile search radius (one-half (½) mile search radius for towers under one hundred twenty (120) feet in height, one-quarter (¼) mile search radius for towers under eighty (80) feet in height) of the proposed tower due to one or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing tower or building, as documented by a licensed professional engineer, and the existing tower cannot be reinforced, modified or replaced.

(b) The applicant’s proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant’s proposed antenna. This interference would have to be documented by a licensed professional engineer. Documentation would have to show that the interference cannot be prevented at a reasonable cost.

(c) Existing towers and buildings within the search radius are not of sufficient height to function reasonably as documented by a licensed professional engineer.

(d) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

Sec. 23-426. Accommodation of other uses (co-location).

(a) Any proposed telecommunication tower and tower site shall be designed, structurally, electrically and in all respects to accommodate co-location of both the applicant’s antenna(s) and comparable antenna(s), for at least two (2) additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights and to accommodate supporting buildings and equipment on the antenna site.

(b) The holder of a special use permit for a tower shall not make co-location on the tower and tower site for the additional users economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a tower permit has made co-location on such tower and tower site economically unfeasible, then the tower permit shall become null and void.

Sec. 23-427. Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the following shall apply:

(a) The owner of such antenna or tower or owner(s) of the property where the tower site is located shall remove the antenna and/or tower including all supporting equipment and building(s) within ninety (90) days of receipt of an abandonment notice from the City Inspection Division. If removal to the satisfaction of the Inspections Supervisor does not occur within the ninety (90) days, the City may remove and salvage the antenna or tower and all supporting equipment and building(s) at the property owner’s expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(b) The applicant for a permit under this ordinance shall submit a copy of a signed agreement between the property owner and owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for abandonment and subsequent removal based on the provisions of (h)(1). The agreement shall also identify that the agreement shall be binding on future property owner(s) and future owner(s) of a tower, antenna and all supporting equipment and building(s).

(Ord 80-97, §1, 9-17-97)

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ARTICLE XIV. SIGNS*

DIVISION 1. 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.

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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.
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.
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.

Suspected 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.

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.
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b. Initial installation time period: Signs shall not be erected earlier than thirty (30) days before an event.

c. Sign removal: Signs shall be removed within two (2) days after the event.

(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-I, C-O, C-1, C-2, and CBD zoning districts, the maximum area of wall signage shall be calculated as follows:

   a. For each building wall, thirty-five percent (35%) of the building wall area or three hundred fifty (350) square feet whichever is less.

(2) In the M-1 and M-2 zoning districts, the maximum area of wall signage shall be calculated as ten percent (10%) of each building wall.

(d) Changeable copy signs (manual and electronic message boards). The maximum area cannot exceed forty-eight (48) square feet.

(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 illuminance: 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.
(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. Wall sign: 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.
(b) Transition time between messages and/or message frames: Three (3) seconds or less.

(c) The following modes of operation shall be allowed:

(1) Static: Signs which include no animation or effects simulating animation.

(2) Fade: Signs where static messages are changed by means of varying light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

(3) Dissolve: Signs where static messages are changed by means of varying light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneous to the gradual appearance and legibility of the subsequent message.

(4) Travel: Signs where the message is changed by the apparent horizontal movement of the letters or graphic elements of the message.

(5) Scrolling: Signs where the message is changed by the apparent vertical movement of the letters or graphic elements of the message.

(d) All electronic message boards must be equipped with automatic light sensors to adjust sign brightness and shall comply with light trespass requirements of Sec. 23-53(g) of this chapter.

(Ord 34-18, §1, 4-10-18)

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.

(Ord 34-18, §1, 4-10-18)

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.
(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.

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**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.
ZONING

(2) Legibility. All signs shall be maintained in a legible condition (except when a weathered or natural surface is intended). Painted signs and murals shall be repainted at such times as the deterioration of the paint results in illegibility or disfiguration.

(3) Condition. All materials that comprise the sign face shall be replaced if broken. All electrical components, switches, lamps, relays, fuses and similar devices shall be maintained in good working order.

(b) **Discontinued or abandoned signs.**

(1) If any sign is discontinued or abandoned for a period of at least six (6) consecutive months in a twelve (12) month period, such sign shall be considered a public nuisance affecting or endangering surrounding property values and will be considered to be detrimental to the public health, safety and general welfare of the community.

(2) All discontinued or abandoned signs and sign messages shall be removed by the owner or lessee of the premises when the business 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.

**Secs. 23-550 – 23-559. Reserved.**

*Remainder of page intentionally left blank*
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 mixed use, 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)
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-I &amp; C-O</th>
<th>C-1 &amp; C-2</th>
<th>CBD</th>
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Supp. #92
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</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.**
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>Gross Floor Area</th>
<th>Proposed Gross Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-10,000 sq ft</td>
<td>Less than 1,000 sq ft</td>
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<td>10,001-25,000 sq ft</td>
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<td>25,001-50,000 sq ft</td>
<td>Less than 5,000 sq ft</td>
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<tr>
<td>50,001 sq ft and over</td>
<td>Less than 7,500 sq ft</td>
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</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.
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. Accessory buildings and/or structures, not including off-street parking lots or loading areas, that are 2,500 square feet or greater in size; except when associated with one-(1) or two-(2) family dwellings, unless when required per Certified Survey Map, Subdivision Plat, or the like.

b. Personal wireless facilities as identified in §23-422(b)(1)-(3).

c. Construction, reconstruction, rehabilitation and expansion of off-street parking lots and loading areas that consist of less than twenty (20) parking spaces or loading spaces.

(Ord 236-11, §1, 12-27-11)

(2) **Development subject to site plan review.**

a. The following new principal buildings, uses, building additions, or structures in any zoning district; except for one-(1) and two-(2) family dwellings or accessory buildings, structures, or uses when associated with or located within one-(1) and two-(2) family dwellings, unless required per Certified Survey Map, Subdivision Plat, or the like:

1. Any new principal buildings or structures.

2. Additions to existing principal buildings, structures or uses except single and two (2) family dwellings and accessory buildings, structures, or uses as established in the table below:

<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>
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<td>0-10,000 square feet</td>
<td>1,000 square feet or greater</td>
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<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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<td>50,001 square feet and over</td>
<td>7,500 square feet or greater</td>
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3. Construction, reconstruction, rehabilitation and/or expansion of off-street parking lots and loading areas that consist of twenty (20) or more parking spaces or loading spaces.

4. Off-street parking lot and loading area reconstruction (patching). Reconstruction (patching) of off-street parking lots and loading areas that affects greater than fifteen percent (15%) of the total square foot area of an existing off-street parking lot and/or loading area per calendar year.

(Ord 237-11, §1, 12-27-11)

(d) Authority. The Community and Economic Development Director is hereby charged with the duty of performing site plan review and granting site plan approval for minor site plans and site plans.

(e) Procedure. Whenever any property owner or individual having a contractual interest proposes to develop/redevelop any tract or parcel of land where site plan review is required, that person shall submit to the Community and Economic Development Director a request for minor site plans or site plan approval.

(1) Presubmittal meeting. To ensure the correct submission of a minor site plan or site plan and to identify the requirements for a complete application, applicants shall attend a presubmittal meeting with the City Community and Economic Development staff prior to submitting an application for site plan review. The applicant will discuss with staff the submission requirements for minor site plan and site plan review. The Community and Economic Development Director shall have the authority to waive the presubmittal meeting, if necessary.

(2) Submission of application. All required information shall be submitted to the Community and Economic Development Director for review and processing. Within fifteen (15) business days after the submittal and acceptance of a complete application, and after notification to the Alderperson of the appropriate district and in consultation with other City officials, the Community and Economic Development Director shall, in a written decision, state the findings of the Site Plan Review Committee. Upon approval, approval with modifications or conditional approval, a building permit may be issued.

(3) Request of additional information. If in the judgment of the reviewing authority, the site plan application does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the fifteen (15) business day period referred to above shall be suspended pending the receipt of all information requested.

(4) Issuance of Building Permit. No building permit shall be issued by the City until site plan approval has been granted as provided in this section, unless otherwise authorized by the Director of the Department of Public Works.

(Ord 171-11, §1, 8-9-11)

(f) Fees and structure. Fees for site plan review shall be established by the City to cover the cost of this review. This fee may include passing along review costs of consultants or agencies that may be requested for review of site plans under unique circumstances such as traffic impact studies or stormwater management plans.

(g) Minor site plan required information. Minor Site Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 11”x17” or a previously approved site plan may be used and submitted. A total of five (5) complete sets shall be submitted to the Community and Economic Development Director.

(1) All Minor Site Plans shall include as a minimum all of the information as required on a form provided by the Department of Community and Economic Development.

(2) The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.

(h) Site plan required information. Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 24” x 36”. A total of five (5) complete folded sets shall be submitted to the Community and Economic Development Director.
(1) All Site Plans shall include, as a minimum, all of the information as required on a form provided by the Department of Community and Economic Development.

(2) 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 Department of Community and Economic Development, when evaluating minor site plans or site plans, will review:

(1) The relationship of the site plan to adopted land use plans and policies.

(2) Parking layout so as to:
   a. Minimize dangerous traffic movements.
   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, the stormwater management ordinance, erosion control ordinance and stormwater utility of the City of Appleton.

(j) Validity of approval, expiration and revisions to site plan. A site plan shall become effective upon obtaining certification of approval by the Community and Economic Development Director on the minor site plan or site plan application and the signature of the Director on the approved plans (revised if necessary).
The approval of any site plan required by this section shall remain valid for one (1) year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this article, “actual construction” shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property or stockpiling of materials on the site shall not constitute actual construction.

An approved site plan shall remain in effect until it is supplanted by a new site plan or is deemed null and void as identified above. A revision to a site plan may be requested by submitting the changes in writing or on a copy of the approved site plan to the Community and Economic Development Director. The Community and Economic Development Director may approve, approve with conditions, deny the requested revision(s) or determine that a new site plan is needed.

Cases that require an extension of time by the applicant can be submitted to the Community and Economic Development Director, in writing, for consideration. In no case, however, shall an extension of time exceed one (1) year.

(k) **Appeal.** If the Community and Economic Development Director denies the application for a site plan or approves the site plan with conditions, the applicant may appeal the decision to the Plan Commission. A notice of appeal must be filed with the Community and Economic Development Director no later than fifteen (15) days after receipt by the applicant of the decision of the Community and Economic Development Director. Failure by an applicant to file an appeal in accordance with the foregoing provisions shall be deemed to constitute a withdrawal of the application for a site plan.

The Plan Commission shall act as promptly as practical on any appeal taken in connection with the proposed site plan. The Plan Commission shall approve, approve with conditions or disapprove the site plan by action taken by a majority of the Plan Commission present at any meeting at which a quorum is present. If the Plan Commission approves the site plan, a building permit may then be issued, provided that all other requirements of all other applicable City codes and ordinances are satisfied.

(l) **Violation.** Construction or other activities contrary to the approved site plan, or in the absence of an approved plan, shall be a violation of this section.

Secs. 23-571 – 23-600. Reserved.
ARTICLE XVI. LANDSCAPING AND SCREENING

Sec. 23-601. Landscaping and screening standards.

(a) **Purpose.** The landscaping and screening requirements specified in this section are intended to:

1. Foster aesthetically pleasing development which will protect and enhance the appearance, character, health, safety and welfare of the community; and

2. To increase the compatibility of adjacent uses, by minimizing adverse impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusions and other objectionable views, activities or impacts to adjacent or surrounding uses.

(b) **Applicability.** A landscape plan shall be required for all exterior construction and development activity, including the expansion of existing buildings, structures and parking lots, except construction of detached single-family and two-family dwellings and their accessory structures. The landscape plan shall be drawn in conformance with the requirements specified in this section.

(c) **Authority.** The Community and Economic Development Director is hereby charged with the duty of performing landscape plan review and granting landscape plan approval prior to issuance of a building permit.

Landscape plans for special use permits and planned developments shall also be reviewed and approved by the Plan Commission and Common Council.

(d) **Approval procedure.** Whenever any property owner or individual having a contractual interest proposes to develop, redevelop or expand a building, structure, or off-street parking lot on any tract or parcel of land where landscape plan review is required, that person shall submit to the Community and Economic Development Director a request for landscape plan approval.

All required information shall be submitted to the Community and Economic Development Director for review and processing. Within thirty (30) days after submittal, the Community and Economic Development Director, after notification to the alderperson of the appropriate district and in consultation with other City officials, shall approve, approve with modifications, conditionally approve or deny the request. If, in the judgment of the reviewing authority, the landscape plan does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the thirty (30) day period referred to above shall be suspended pending the receipt of all information requested.

The Community and Economic Development Director may seek professional advice from a registered landscape architect or licensed nurseryman in the review of any submitted landscape or screening plan. The cost of such consultation shall be passed on to the applicant.

Any applicant aggrieved by a decision to deny a permit may appeal as set out in §23-68, Administrative appeals.

No building permit shall be issued by the City until landscape plan approval has been granted as provided in this chapter.

(e) **Required information.** All landscape plans submitted for approval shall contain or have attached the following information:

1. The location and dimensions of all existing and proposed structures, building entrances, parking lots and drives, rights-of-way, sidewalks, bicycle paths, ground mounted signs, refuse disposal areas, bicycle parking areas, fences, freestanding electrical equipment, recreational facilities and other freestanding structural features.

2. In the required landscape plan, state, at planting and at maturity, the location, quantity, size and name (including common and botanical names) of all proposed plant materials and any other information to fully describe the plant material. The location, size and type of existing plant material shall simply be identified.
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(3) The location of all existing trees over six (6) inches in diameter.

(4) The location and size of existing structures and plant materials on adjacent property within the required yard of that adjacent property.

(5) Existing and proposed grading of the site, including proposed berming (indicating contours at one (1) foot intervals), spot elevations for high and low points, the flow line of drainage swales and grading features such as retaining walls, etc.

(6) Specification of the type and boundaries of all proposed ground cover.

(7) Elevations, including dimensions and materials, of all fences proposed for construction on the site.

(f) **Design criteria.** Landscape plans shall be prepared, evaluated and approved based on design criteria as identified below:

(1) Landscaping, at a minimum, shall reflect the character of the property and of adjacent properties.

(2) Any landscaping located within the front setback, in a required vision corner or within ten (10) feet of a private driveway (§23-50(g), Vision corner), shall have the following restrictions:
   a. Shrubs shall be maintained at a height of no greater than three (3) feet.
   b. Trees must have a clearance from the ground to the bottom of the first branch of a minimum of six (6) feet.

(3) Side yard screening located within ten (10) feet of the street right-of-way or private driveway must not exceed three (3) feet in height. For other side and rear yard screening requirements, see §23-50(g), Vision corner.

(4) The mature spread and overhang of plantings shall not obstruct pedestrian use of walkways or vehicular use of drives or off-street parking spaces.

(5) All shade trees shall have a minimum trunk size of two and one-half (2½) inches in diameter upon installation as measured at six (6) inches above the established ground level. Shade trees shall be specimen grade with a single central leader.

(6) Trees and plant materials used in landscaping and screening shall conform to the standards of the American Association of Nurserymen and shall have passed any inspection required under state regulations.

(7) Detention/retention basins and ponds shall be landscaped. Such landscaping may include shade and ornamental trees, grasses, evergreens, shrubbery, hedges or other suitable planting materials and used in a manner that controls siltation and erosion.

(8) Trees to be maintained on and adjacent to the property shall be protected during construction by placing a barrier beyond the dripline of the tree canopy.

(9) New plantings shall not be allowed to shade an existing solar panel receptor on an adjacent property.
(10) The scale and nature of landscaping materials shall be appropriate to the size of buildings and structures in the project, as well as complement the surrounding neighborhood.

(11) Plant material shall be selected for its form, texture, color, and maintenance and with consideration for its ultimate size at maturity and its adaptability to site conditions.

(12) Shrubs and hedges used for screening purposes shall be installed in a staggered pattern and shall be at least twenty-four (24) inches in height at the time of planting. The plantings shall be designed to provide an effective, dense screen within two (2) years after the date of planting. The height at installation of the planting shall be measured from the level of the surface of the plant base at the edge closest to the screening.

(13) At maturity, trees shall be maintained so there is a seven (7) foot underclearance when over off-street parking spaces, off-street loading spaces and drive aisles, and a ten (10) foot underclearance when over a public right-of-way to meet Crime Prevention Through Environmental Design (CPTED) standards. Trees shall be planted as far from the public sidewalk as possible.

(14) Plant material shall be placed intermittently against long expanses of building walls, fences and other barriers to achieve a softening effect of hard building lines.

(15) Earthen berms and existing topography shall be incorporated into the landscape treatment of a site. Berms shall conform to the following standards:
   a. The maximum side slope of any berm shall be three horizontal to one vertical (3:1) and the design shall be reviewed by the Community and Economic Development Director to ensure that proper drainage, erosion prevention and control practices have been utilized.
   b. Berms and earth mounds shall be designed with physical variations in height and alignment throughout their length.
   c. Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.

(16) Plantings or an enclosure shall screen service structures such as mechanical equipment, utility box pads and pedestals, trash containers and other enclosures.

(17) Plantings around the base of ground signs is required. A minimum area of total sign face area of one (1) side of a sign shall be landscaped at the base of the sign.
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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 used 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.
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.

ARTICLE XVII. HISTORIC PRESERVATION

Sec. 23-651. Historic preservation.

(a) Purpose. It is hereby declared a matter of public policy that the protection, enhancement, preservation and use of improvements or sites of special character or special architectural, archeological or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this section is to:

(1) Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of Appleton’s cultural, social, economic, political, artistic and architectural history;

(2) Safeguard Appleton’s historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts;

(3) Foster civic pride in the notable accomplishments of the past;

(4) Stabilize and improve property values and enhance the visual and aesthetic character of Appleton;

(5) Protect and enhance Appleton’s attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

(b) General. This section shall in no way be construed to undermine or supersede and shall be consistent with the existing adopted City of Appleton Municipal Code which protects the public health, safety and welfare of Appleton residents. Ordinary maintenance and repairs shall be made to ensure compliance with Article 4 of Chapter 4 of the Municipal Code.

(c) Definitions. See Section 23-22 Words and terms defined, under the reference “HISTORIC PRESERVATION”.

(d) Organization. The Historic Preservation Commission is hereby created and shall consist of five (5) regular members and two (2) alternates appointed by the Mayor and subject to approval by the Common Council as vacancies occur or terms expire.

(e) Members and qualifications. If possible, one (1) regular member shall be an architect; one (1) shall be an alderperson; two (2) regular members shall have historian, restoration craftsperson, or architectural history credentials or expertise, or other historic preservation related disciplines such as urban planning, American Studies, American Civilization, cultural geography or cultural anthropology; one (1) regular member shall be a licensed real estate broker with two (2) alternates appointed from any of the above qualifications. All members shall be selected for their knowledge of and interest in matters pertaining to this section. Alternate members shall have full voting power in the event one (1) or more regular members have declared a conflict of interest or in the event one (1) or more regular members are absent.

(f) Terms. The term for each member shall be three (3) years on staggered terms except, the alderperson will be appointed annually at the Common Council annual reorganization meeting. The term for each member shall expire May 1 of each year.

(g) Reorganizational meeting. The Historic Preservation Commission shall reorganize in May of each year by electing a chair, vice-chair, contact person and secretary. All meetings of the Commission shall be held at the call of the chairman or at such times as the Commission determines.

(h) Designation of local historic structures, local historic sites and local historic districts. The Historic Preservation Commission shall have the power to recommend local designation of historic structures, historic sites and historic districts within the City of Appleton limits. Such designation shall be made based on the review of the local historic structure, local historic site and local historic district designation criteria identified in subsection (i) of this section. Local designation of historic sites, historic structures and historic districts shall be recommended to the Common Council for a final approval. Once designated, such local historic structures, local historic site and local historic district shall be subject to all the provisions of this chapter.

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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) **Informal Public hearing at Historic Preservation Commission.** At least fourteen (14) days prior to such informal public hearing, the Community and Economic Development Department shall mail the informal public hearing notice, by 1st Class mail, to the alderperson of the aldermanic district, owners of record of the proposed local historic structure designation or local historic site designation and owners situated within one hundred (100) foot radius of the nominated local historic structure or site, as listed in the Office of the City Assessor. The informal public hearing notice shall identify the purpose, date, time and place of the informal public hearing.

a. The Historic Preservation Commission shall then conduct such informal public hearing and, in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.

(3) **Action by the Historic Preservation Commission.** After the close of the informal public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this section and either recommend approval or denial of the proposed local historic structure designation or local historic site designation to the Common Council, unless time is extended by agreement between the Historic Preservation Commission and the owner or owner’s agent in charge of the property.

(4) **Action by the Common Council.**
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a. Notice of public hearing for proposed local historic structure designation or local historic site designation shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

b. At least fourteen (14) days prior to such public hearing, the City Clerk shall mail the public hearing notice by 1st Class mail, to the alderperson of the aldermanic district, owners of record of the proposed local historic structure designation or local historic site designation and owners situated within one hundred (100) foot radius of the nominated local historic structure or site, as listed in the Office of the City Assessor. The public hearing notice shall identify the purpose, date, time and place of the public hearing.

c. After the close of the public hearing, the Common Council shall review the report and recommendation of the Historic Preservation Commission. The Common Council shall either approve or deny the proposed local historic structure designation or local historic site designation, or refer the matter back to the Historic Preservation Commission.

d. City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner’s agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(l) Procedure for designation of local historic districts.

(1) Historic district designation criteria. For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the city of Appleton to be designated as a local historic district and shall, in cooperation with the property owner(s) or owner’s agent prepare a Historic Preservation Plan for each area. A local historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city of Appleton, after review of the criteria in subsection (i) a., b., c., d. and e. of this section.

a. Local Historic Preservation Plan. Each local historic preservation plan shall include the following:

1. a brief description of the district,
2. identification of the current property owners of record, of the contributing structures,
3. identification of the uses/functions of each property in the district,
4. a legal description of the district boundaries,
5. a map showing the legal boundaries of the district,
6. current photographs of the contributing structures,
7. a historical/cultural and architectural analysis supporting the historic/cultural significance of the district, and
8. a statement of preservation objectives and specific guidelines for future historic preservation alterations, historic preservation repairs or demolition activities within the district.

(2) Application process. Application forms for local historic district designations shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application, the Local Historic Preservation Plan and supporting materials are then filed with the City Clerk.

(3) Informal public hearing at Historic Preservation Commission. At least fourteen (14) days prior to such hearing, the Community and Economic Development Department shall mail the informal public hearing notice, by 1st Class mail, to the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district and owners of property in whole or in part situated within a one hundred (100)
foot radius of the nominated local historic district, as listed in the Office of the City Assessor. The notice of informal public hearing shall identify the purpose, date, time and place of the informal public hearing.

(4) **Action by the Historic Preservation Commission.** After the close of the informal public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this section and either recommend approval or denial of the proposed local historic district designation and adoption of the proposed Local Historic Preservation Plan to the Common Council, unless time is extended by agreement between the Historic Preservation Commission and the owner(s) or owner’s agent in charge of the property.

(5) **Action by the Common Council.**

a. Notice of public hearing for designation of local historic districts and adoption of the Local Historic Preservation Plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

b. At least fourteen (14) days prior to such hearing, the City Clerk shall mail the public hearing notice by 1st Class mail, to the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district, and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated local historic district, as listed in the Office of the City Assessor.

c. After the close of the public hearing, the Common Council shall review the report and recommendation of the Historic Preservation Commission. The Common Council shall either approve or deny the proposed local historic district designation and the proposed Local Historic Preservation Plan, or refer the matter back to the Historic Preservation Commission. Designation of the local historic district shall constitute adoption of the proposed Local Historic Preservation Plan prepared for that local historic district and denotes the implementation of said plan.

d. The City Clerk shall send written notice of the action taken by the Common Council to the property owners or owner’s agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(m) **Recognition of locally designated historic structures, historic sites and historic districts.** At such time as a locally designated historic structure, historic site or historic district has been properly designated, the Historic Preservation Commission, in cooperation with the property owner(s) or owner’s agent, may allow a suitable plaque, marker or other appropriate identifier declaring that such property is a local historic structure, local historic site, local historic district, or a contributing structure.

(n) **Certificate of Appropriateness provision: Regulation for exterior construction, reconstruction, historic preservation alteration and demolition.**

(1) No owner or owner’s agent in charge of a local historic structure, local historic site or contributing structure shall be issued a permit by the Division of Inspections for any work identified in subsection (n)(2) a. and b. of this section, unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission.

(2) An owner or owner’s agent in charge of a local historic structure, local historic site or contributing structure shall apply for and receive approval of a Certificate of Appropriateness from the Historic Preservation Commission prior to performing any of the following work:

a. Historic preservation alterations or demolition of all or any part of a local historic structure, local historic site or contributing structure;

b. Historic preservation alterations or demolition of any improvement upon a local historic structure, local historic site or contributing structure.

(3) **Application process.** Application forms for a Certificate of Appropriateness shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete
application through initial review by the Director, the complete application, which includes the written application and supporting materials are then forwarded to the Historic Preservation Commission.

a. **Standards for granting Certificate of Appropriateness for exterior construction, reconstruction and historic preservation alterations.** In determining whether to approve or deny a Certificate of Appropriateness for a historic preservation alteration, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:

1. In the case of a local historic structure, local historic site or a contributing structure, the proposed work utilizes materials that are similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure;

2. In the case of the construction of a new improvement upon a local historic structure, local historic site, or a contributing structure, the exterior materials of such improvement are similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure;

3. In the case of any improvement made to a contributing structure, the proposed exterior historic preservation alteration shall conform to the purpose of this section and to the objectives and design criteria of the local historic preservation plan for the applicable local historic district.

b. **Standards for granting Certificate of Appropriateness for demolition.** In determining whether to approve or deny a Certificate of Appropriateness for any demolition of all or part of a local historic structure, a local historic site or a contributing structure, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:

1. The local historic structure or local historic site or contributing structure is in such deteriorated condition that it is not economically feasible to renovate or restore it, provided that any economic hardship or difficulty claimed by the owner or owner’s agent has not been self-created or is not the result of any failure to maintain the local historic structure, local historic site or contributing structure in good repair.

2. The local historic structure, local historic site or contributing structure is of such local architectural or historical significance that its demolition would not be detrimental to the public interest and would not be contrary to the general welfare of the people of the city of Appleton and the state;

3. The denial of the demolition permit would result in the loss of reasonable and beneficial use of or economic return from the property.

(4) **Review and decision by the Historic Preservation Commission.** The Historic Preservation Commission, within twenty-five (25) business days from the date the Certificate of Appropriateness application was accepted by the Director, shall either approve or deny the application, unless the time is extended by agreement between the Historic Preservation Commission and the owner or owner’s agent in charge of the property. The Historic Preservation Commission shall clearly state the reasons why the exterior materials are similar or are not similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure.

(5) **Appeals.**

a. If the Historic Preservation Commission denies the Certificate of Appropriateness, the Historic Preservation Commission shall, at the request of the owner or person in charge of such property, work
with the owner or owner’s agent in charge of such property in an attempt to obtain a Certificate of Appropriateness within the standards of this section.

b. In addition, if the Historic Preservation Commission denies the application for a Certificate of Appropriateness due to the proposal failing to conform to the standards for granting a Certificate of Appropriateness as identified in this section, the owner or owner’s agent may appeal such decision to the Common Council.

1. The owner or owner’s agent in charge of such property shall file a written appeal specifying the grounds for such an appeal with the Director no later than thirty (30) days from the date of the decision of the Historic Preservation Commission. Failure by the owner or owner’s agent in charge of such property to file a written appeal in accordance with the abovementioned provisions shall be deemed to constitute a withdrawal of the application for a Certificate of Appropriateness.

2. After consideration of the appeal, the Common Council by majority vote may either affirm the decision of the Historic Preservation Commission or approve the issuance of the Certificate of Appropriateness, in which case the Director shall issue the Certificate of Appropriateness.

(6) Other permits and approvals. The approval of a Certificate of Appropriateness shall not relieve the property owner or owner’s agent from applying for and obtaining all necessary permits and approvals pursuant to the Municipal Code prior to the commencement of such proposed work.

(7) Violation; penalty. Failure to comply with the approved Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness prior to the issuance of a building permit shall be a violation of this section. Administration and enforcement shall be as prescribed in the enforcement section of this chapter.

(o) Exempt work from Certificate of Appropriateness provisions. Historic preservation repairs made to a local historic structure or local historic site or contributing structure may be undertaken without a Certificate of Appropriateness, provided the work involves repairs to existing exterior features of a local historic structure or local historic site, or the replacement of existing exterior features of a local historic structure, local historic site or contributing structure with materials that are identical in design, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure and does not require the issuance of a building permit. Painting is exempt from the Certificate of Appropriateness provisions.

(p) Procedure to rescind a local historic structure designation, local historic site designation and local historic district designation.

1. Application process.
   a. Rescind a local historic structure designation or local historic site designation. The property owner or owner’s agent in charge of a local historic structure or local historic site shall submit an application form to rescind a local historic structure designation or local historic site designation to the Community 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.

a. Notice of public hearing to rescind a local historic structure designation, local historic site designation, or local historic district designation and the applicable local historic preservation plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

b. At least fourteen (14) days prior to such hearing, the Community and Economic Development Department shall mail the public hearing notice, by 1st Class mail, to the alderperson of the aldermanic district, owners of record, and owners of property in whole or in part situated within a one hundred (100) foot radius of the local historic structure, local historic site or local historic district, as listed in the Office of the City Assessor.

c. The Historic Preservation Commission shall then conduct such public hearing, and in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.

(3) **Action by the Historic Preservation Commission.** After the close of the public hearing, the Historic Preservation Commission shall review the rescission criteria in subsection (p)(3)a.1., 2., 3., and 4. of this section and either recommend approval or denial of the proposed rescission to the Common Council.

a. **Rescission Criteria.** Rescission can occur for any one (1) or more of the following:

   1. The property owner has requested the designation to be rescinded for economic hardship or health reasons;
   2. For the failure to adhere to the specific standards of the historic district in which the property is located;
   3. For the failure to adhere to the specific standards of the zoning district the property is located; or
   4. The designated historic structure, site or district no longer meets the criteria of designation or retains the integrity necessary for designation.

(4) **Action by the Common Council.**

a. After receiving and reviewing the report and recommendation of the Historic Preservation Commission the Common Council shall either approve, deny, or postpone the proposed application to rescind a local historic site designation, a local historic structure designation or a local historic district designation and the applicable local historic preservation plan, or refer the matter back to the Historic Preservation Commission.

b. The City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner’s agent, Community 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; Ord 88-19, §1, 9-10-19)

**Editor’s Note:** Article XVII Historic Preservation was repealed and recreated via ordinance 98-12 adopted by the Common Council on October 3, 2012, published October 8, 2012, effective October 9, 2012.
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.”
Standards for met towers. Met towers shall be permitted under the same standards, permit requirements, restoration requirements and permit procedures as a small wind energy system.

(d) Permit requirements.

(1) Permits. All required permits, including but not limited to, building and electrical permits, shall be obtained prior to the installation of a small wind energy system.

(2) Documents. The building permit application shall be accompanied by a site plan which includes the following:

a. Property lines and physical dimensions of the property;
b. Location, dimensions, and types of existing structures on the property;
c. Location of the proposed wind system tower;
d. The right-of-way of any public road that is contiguous with the property;
e. Any overhead utility lines;
f. Wind systems specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);
g. Tower foundation plans and specifications;
h. Tower plans and specifications.

(e) Site plan review. Small wind energy systems require a site plan review and approval process and shall comply with all applicable standards and regulations as identified in §23-570. Site Plan Review and Approval, of this ordinance.

(f) Fees. The application for a building permit for a small wind energy system must be accompanied by the fee required for a building permit for a permitted accessory use.

(g) Expiration. A permit issued pursuant to this ordinance shall expire if:

(1) The small wind energy system is not installed and functioning within twenty-four (24) months from the date the permit is issued; or,

(2) The small wind energy system is out of service or otherwise unused for a continuous twelve (12) month period.

(h) Abandonment.

(1) A small wind energy system that is out-of-service for a continuous twelve (12) month period will be deemed to have been abandoned. The Building Inspection Supervisor may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The Building Inspection Supervisor shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.

(2) If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the owner’s sole expense within three (3) months receipt of Notice to Abandonment. If the owner fails to remove the wind generator from the tower, the Building Inspection Supervisor may pursue a legal action to have the wind generator removed at the owner’s expense.
(i) **Building permit procedure.**

1. An owner shall submit an application to the Building Inspection Supervisor for a building permit for a small wind energy system. The application must be on a form approved by the Building Inspection Supervisor and must be accompanied by two (2) copies of the site plan identified in (d)(2) above.

2. The Building Inspection Supervisor shall issue a building permit or deny the application within one (1) month of the date on which the application is received.

3. The Building Inspection Supervisor shall issue a building permit for a small wind energy system if the application materials show that the proposed small wind energy system meets the requirements of this ordinance.

4. If the application is approved, the Building Inspection Supervisor will return one signed copy of the application with the permit and retain the other copy with the application.

5. If the application is rejected, the Building Inspection Supervisor will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the Building Inspection Supervisor’s decision pursuant to Chapter 68 Wis. Statutes. The applicant may resubmit if the deficiencies specified by the Building Inspection Supervisor are resolved.

6. The owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the small wind energy system is complete, and full use authorized as signed by pertinent authority.

(j) **Site plan review procedure.** Prior to obtaining a building permit an owner/applicant shall obtain site plan approval as required by §23-570. Site Plan Review and Approval of this ordinance.

(k) **Violations.** It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with manufacturer’s requirements and this ordinance or with any condition contained in a special use permit and a building permit issued pursuant to the ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt.

(l) **Administration and enforcement.**

1. This ordinance shall be administered by the Building Inspection Supervisor or other official as designated.

2. The Building Inspection Supervisor or designee may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the condition stated in the permit have been met.

3. The Building Inspection Supervisor may issue orders to abate any violation of this ordinance.

4. The Building Inspection Supervisor may issue a citation for any violation of this ordinance.

5. In addition to the above §23-69 Enforcement of this ordinance shall apply.

(Ord 73-11, §1, 3-8-11)
ARTICLE XIX. SHORELAND ZONING

Sec. 23-750. Statutory authorization.

(a) This ordinance is adopted pursuant to the authorizations in §62.233 of the Wisconsin Statutes for villages and cities.

(b) The Appleton Common Council determines that uncontrolled development and use of the shorelands of this municipality would impair the public health, safety, convenience, general welfare and tax base.

Sec. 23-751. Definitions.

As used in this article of the zoning ordinance, the following terms shall have the meanings indicated:

Navigable waters means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d) Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder shoreland ordinances required under s. 59.692, Stats., and this chapter do not apply to lands adjacent to farm drainage ditches if:

(a) Such lands are not adjacent to a natural navigable stream or river;

(b) Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching or had no previous stream history; and

(c) Such lands are maintained in nonstructural agricultural use.

Ordinary high-water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

Principal building means a building which contains the primary use of the lot, as contrasted to accessory structure, building or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

Shorelands has the meaning given in §59.692(1)(b) of the Wisconsin Statutes.

Shoreland setback area has the meaning given in §59.692(1)(bn).

Shoreland zoning district means a zoning district comprised of shorelands that are subject to the provisions of Sec. 23-752.

Sec. 23-752. Jurisdiction.

The jurisdiction of this chapter shall include all the shorelands of the City which are:

(a) Within 1,000 feet of the ordinary high water mark of navigable lakes, ponds or flowages. Lakes, ponds, or flowages in the City shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources’ publication “Surface Water Resources of Outagamie County” or shown on U.S. Geological Survey Quadrangle maps. If evidence to the contrary is presented, the Director of Public Works shall make the initial determination whether or not the lake, pond, or flowage in question is navigable under the laws of the State. The Director of Public Works shall also make the initial determination of the location of the Ordinary High Water Mark.

(b) Within 300 feet of the ordinary high water mark of navigable rivers or streams. For the purposes of this subsection, rivers and streams in the City shall be presumed to be navigable if they are designated under one of the following categories on the Official Shoreland Zoning District Map:

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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.
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)
Sec. 24-1. Authority.

(a) This ordinance is adopted under the authority granted by §62.234, Wis. Stats. This ordinance supersedes all provisions of any ordinance previously enacted under §62.23, Wis. Stats., that relates to erosion and sediment control. Except as otherwise specified in §62.234 Wis. Stats., §62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(b) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City of Appleton.

(c) The City of Appleton hereby designates the Director of Public Works or his/her designee as the administering authority to enforce the provisions of this ordinance.

(d) The requirements of this ordinance do not preempt more stringent erosion and sediment control requirements that may be imposed by any of the following:

1. Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under §281.16 and §283.33, Wis. Stats.

2. Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

Secs. 24-3 – 24-9. Reserved.

for construction site pollutant control in the General Permit to Discharge under the Wisconsin Pollutant Discharge Elimination System WPDES Permit No. WI S050075-2 administered by the Wisconsin Department of Natural Resources (WDNR).

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

Sec. 24-2. Purpose.

The City of Appleton acknowledges that runoff from land disturbing construction activity and improper land management carries sediment and other pollutants to the waters of the state.

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing activity to waters of the state within the City of Appleton.

It is also the purpose of this ordinance to meet the performance standards in subchapters III and IV of Ch. NR 151, Wis. Adm. Code and to meet the requirements

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Sec. 24-10.   Applicability and jurisdiction.

(a) Applicability.

(1) This ordinance applies to all land disturbing activities, including transportation facilities, within the City of Appleton except as provided under sub. (3).

(2) Land disturbing activities meeting any one of the following are required to prepare a plan and obtain a permit:

a. Building on lots in subdivisions, certified survey maps or unplatted lands.

b. Land disturbing activities involving grading, removal of protective ground cover or vegetation, excavation, land filling, scraping or other land disturbing activity affecting a surface of two thousand (2,000) square feet or more.

c. Land disturbing activities involving excavation or filling or a combination of excavating and filling affecting two hundred (200) cubic yards or more of soil, dirt, sand or other excavation or fill material.

d. Land disturbing activities involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.

e. Land disturbing activities involving the laying, repairing, replacing or enlarging of an underground pipe, wire, cable or facility for a distance of three hundred (300) feet or more.

f. Land disturbing activities within protective areas as defined in City of Appleton Municipal Code Sec. 20-312(f).

g. Routine ditch maintenance for a continuous distance of one hundred (100) feet or more.

h. Notwithstanding the previously listed applicability requirements, this ordinance applies to any sites which, in the opinion of the City of Appleton, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that cause undue erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property or public safety.

(3) This ordinance does not apply to the following:

a. Land disturbing construction activity that includes the construction of one- (1-) and two- (2-) family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one (1) acre of disturbance. These construction sites are regulated by the Wisconsin Department of Safety and Professional Services under s. SPS 321.125 Wis. Adm. Code.

b. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under Chapter 40, Code of Federal Regulations, part 122, for land disturbing activity.

c. Nonpoint discharges from agricultural facilities and practices.

d. Nonpoint discharges from silviculture activities.

e. Activities conducted by a state agency, as defined under §227.01 (1), Wis. Stats., but also including the office of the district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under §281.33 (2), Wis. Stats.

(b) Jurisdiction.

(1) This ordinance applies to land disturbing activities located within the boundaries of the City of Appleton.

(2) County and town ordinances. This ordinance supercedes any county or town erosion and sediment control ordinance for lands annexed to the City after the effective date of the county’s or town’s ordinance, except when the county’s or town’s ordinance is more restrictive than this ordinance; then the more restrictive
provisions set forth in the county or town ordinance shall become part of this ordinance and apply to the annexed lands. In such cases, the City may grant a variance from the more restrictive requirements provided that the criteria for a variance as set forth in the county ordinance is met.

(3) Waivers. Requests to waive the erosion and sediment control requirements, or a portion thereof, shall be submitted to the City of Appleton, in writing, with the application and fee, for review. Written waivers may be granted administratively by the City for erosion and sediment control requirements that are required by the City if it is demonstrated to the satisfaction of the City that it is reasonable to expect that the objectives of this ordinance will be met without an erosion and sediment control plan or portion thereof.

(4) Applicability of maximum extent practicable. Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City of Appleton’s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other completing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

(Ord 180-04, §1, 1-1-05; Ord 181-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16; Ord 9-20, §1, 2-11-20))

Secs. 24-11 – 24-14. Reserved.

Sec. 24-15. Definitions.

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

Administering authority means the Director of Public Works, or a designee.

Agricultural facilities and practices has the meaning in §281.16(1), Wis. Stats.

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical. An average annual rainfall for Green Bay, 1969 (March 29 - November 25) is applicable for the City of Appleton.

Best management practice or BMP means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff.

Business day means a day the offices of the City of Appleton are routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing activity that is being conducted without the required permit or not in conformance with an existing permit.

City means the City of Appleton.

Common plan of development or sale means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one (1) plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

Construction site means an area upon which one (1) or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one (1) common plan of development.

Design storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall. Rainfall amounts for 24-hour design rainfall events in Appleton are: 100-year, 5.50 inches; 10-year, 3.51 inches; 5-year, 3.01 inches; 2-year, 2.45
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inches, and 1-year 2.14 inches. The distribution shall be NOAA Atlas 14 MSE4.

**Erosion** means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.

**Erosion and sediment control plan** means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

**Final stabilization** means that all land disturbing activities at the site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least seventy percent (70%) of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

**Land disturbing activity** means any man-made alteration resulting in a change in the topography, existing vegetative or non-vegetative soil cover, or drainage pattern, that may result in runoff and lead to an increase in soil erosion and movement of sediment. Land disturbing activities include, but are not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, an unstable pipe outfall, or an unstable slope.

**Landowner** means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of stormwater BMPs on the property.

**Maximum extent practicable** means the highest level of performance that is achievable, but is not equivalent to a performance standard, taking into account the best available technology, cost effectiveness and other competing issues such as human welfare, endangered and threatened resources, historic properties, and geographic features, pursuant to Sec. 20-10(b)(4) of the Appleton Municipal Code.

**Performance standard** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

**Permit** means a written authorization made by the City of Appleton to the applicant to conduct land disturbing activity.

**Pollutant** has the meaning given in §283.01(13), Wis. Stats.

**Pollution** has the meaning given in §281.01(10), Wis. Stats.

**Responsible party** means any person holding fee title to the property or other entity performing services to meet the requirements of this ordinance through a contract or other agreement.

**Runoff** means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

**Performance security** means cash, or an irrevocable letter of credit submitted to the City of Appleton by the responsible party to assure that requirements of the ordinance are carried out in compliance with the approved erosion and sediment control plan and to recover any costs incurred by the City for designing, engineering, preparation, checking and review of plans and specifications, regulations and ordinances, and legal, administrative and fiscal work undertaken to assure and implement such compliance.

**Permit application fee** means a sum of money paid to the City of Appleton by the responsible party for the purpose of recouping expenses incurred by the City in administering the permit.

**Sediment** means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

**Silviculture activity** means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

**Site** means the entire area included in the legal description of the land on which the land disturbing activity is proposed in the permit application or has occurred.

**Stop work order** means an order issued by the City of Appleton, which requires that all construction activity on the site be stopped.

**Stormwater conveyance system** means any method employed to carry stormwater runoff within and from a land development or redevelopment activity to the waters of the state. Examples of methods include: swales, channels and storm sewers.

(Ord 182-11, §1, 1-1-12)

**Technical standard** means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

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Sec. 24-35. Erosion and sediment control plan, statement and amendments.

(a) Erosion and sediment control plan.

(1) An erosion and sediment control plan shall be prepared and submitted to the City of Appleton Department of Public Works unless the project is required to also submit a site plan. If a site plan is required, the complete erosion and sediment control permit application and appropriate fee shall be submitted to the City of Appleton Community Development Department with the site plan submittal.

(2) The complete erosion and sediment control plan shall be submitted in both hard copy and .pdf format.

(3) The erosion and sediment control plan shall be prepared by a person who holds a registration issued by the Wisconsin Department of Regulation and Licensing in one (1) of the following categories:
   a. Architect.
   b. Engineer.
   c. Land Surveyor.
   d. Landscape Architect.

(4) The erosion and sediment control plan shall be designed to meet the performance standards in Sec. 24-25 and other requirements of this ordinance.

(5) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
   a. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant’s contact at such firm. The application shall also include start and end dates for construction.
   b. Description of the site and the nature of the land disturbing activity. Sites of one (1) acre or more shall include the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
   c. The intended sequence of land disturbing construction of the development site, including stripping; clearing and grubbing; excavation; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date when clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, establishment of permanent vegetation and removal of erosion and sediment controls.
   d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
   e. For sites less than one (1) acre of disturbed area, include BMPs meeting the provisions of Sec. 24-25(c)(2).
   f. For sites with one (1) acre or more of disturbed area, provide calculations per WDNR Soil Loss Guidelines per Sec. 24-25(c)(3).
   g. Location and description of the existing surface soil as well as subsoils, as indicated by USDA Natural Resource Conservation Service Soil Survey information.
   h. Whenever permanent infiltration devices will be employed or were evaluated, the depth to the nearest seasonal high groundwater elevation or top of bedrock shall be identified per appropriate on-site testing.
   i. Name of the immediate named receiving water from the United States Geological Services 7.5 minute series topographic maps.

(6) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than one hundred (100) feet per inch and at a contour interval not to exceed two (2) feet.
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a. Existing topography, vegetative cover, natural and engineered drainage patterns and systems, roads, and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on the site and on adjacent lands shall be shown. Any identified 100-year flood plains, flood fringes, floodways, and flood storage areas shall also be shown.

b. Boundaries of the parcel and the construction site.

c. Drainage patterns and approximate slopes before and after major grading activities.

d. Areas of soil disturbance.

e. Location, dimensions and descriptions of major structural and non-structural controls identified in the erosion and sediment control plan.

f. Location of areas where stabilization BMPs will be employed.

g. Areas that will be vegetated following land disturbing construction activity.

h. Area(s) and location(s) of wetland acreage on the site and locations where stormwater is discharged to a surface water or wetland, within one-quarter mile downstream of the construction site.

i. Water courses and wetlands that may affect or be affected by runoff from the site.

j. On sites one (1) acre or larger an alphanumeric or equivalent grid overlying the entire construction site map.

k. Topography and drainage network of enough of the contiguous properties to show runoff patterns onto, through, and from the site.

l. Location, dimensions and description of utilities, structures and pavements.

m. Area(s) used for infiltration of post-construction stormwater runoff.

(7) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:

a. Description of interim and permanent stabilization practices, including a BMP implementation schedule. Erosion and sediment control plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the City of Appleton, structural measures shall be installed on upland soils.

c. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.

d. Trapping of sediment in channelized flow.

e. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.

f. Protection of downslope drainage inlets where they occur.

g. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.

h. Clean up of off-site sediment deposits.

i. Proper disposal of building and waste materials, including but not limited to
designated sites for concrete truck washout.

j. Stabilization of drainage ways.

k. Control of soil erosion from stockpiles.

l. Installation of permanent stabilization practices within ten (10) days after final grading.

m. Minimization of dust to the maximum extent practicable.

(Ord 187-11, §1, 1-1-12)

(8) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(b) Erosion and sediment control plan statement.
For each land disturbing construction site identified under Sec. 24-15, an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the City of Appleton. The control plan statement shall briefly describe the site, the development schedules and the best management practices that will be used to meet the requirements of the ordinance.

(c) Amendments. The applicant shall amend the plan if any of the following occur:

(1) There is a change in design, construction, operation or maintenance at the site that has the reasonable potential for the discharge of pollutants and has not otherwise been addressed in the erosion and sediment control plan.

(2) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.

(3) The City of Appleton notifies the applicant of changes needed in the plan.
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

Sec. 24-40. Fee schedule.

Fees for the erosion and sediment control permits will be in such amount as may be established by the City of Appleton Common Council from time to time by separate resolution. Fees will be on file with the City Clerk.
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

Secs. 24-41 – 24-44. Reserved.

Secs. 24-45. Site inspections.

Whenever land disturbing activities are being carried out, the City of Appleton may enter the land pursuant to the provisions of §§66.0119(1), (2), and (3), Wis. Stats.
(Ord 180-04, §1, 1-1-05; Ord 188-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

Secs. 24-46 – 24-49. Reserved.


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Sec. 24-50. Enforcement and penalties.

(a) Any land disturbing activity initiated after the effective date of this ordinance by any person, firm, association or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with these ordinance provisions.

(b) The City of Appleton shall notify the responsible party in writing of any non-complying activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action and additional enforcement action, which may be taken.

(c) Upon receipt of written notification from the City of Appleton, the responsible party shall make the necessary corrections within the time period established by the City of Appleton.

(d) If the violations issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City of Appleton may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of Appleton plus interest and legal costs shall be billed to the responsible party.

(e) The City of Appleton is authorized to post a stop work order on all land development or redevelopment activity in violation of this ordinance, or to request the Appleton City Attorney to obtain a cease and desist order.

(f) The City of Appleton may revoke a permit issued under this ordinance for noncompliance with ordinance provisions.

(g) Any permit revocation, stop work order or cease and desist order shall remain in effect unless retracted by the City of Appleton or by a court of competent jurisdiction.

(h) The City of Appleton is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Appleton City Attorney for the commencement of further legal proceedings.

(i) Any person, firm, association or corporation who does not comply with the provisions of this ordinance shall be subject to the general penalty provisions of the Appleton Municipal Code Sec. 1-16. Each day that the violation exists shall constitute a separate offense.

(j) Violations of this ordinance deemed to be a public nuisance shall be subject to abatement under Sec. 12-32 of the Appleton Municipal Code or compliance with this ordinance may be enforced by injunctive order in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

(k) When the City of Appleton determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the erosion and sediment control plan submitted and approved pursuant to this ordinance, or has failed to comply with schedules set forth in said erosion and sediment control plan, the City of Appleton or a party designated by the City of Appleton may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City of Appleton shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance security posted pursuant to this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property.

(l) No building occupancy may be issued if there is noncompliance of any provision herein.

(m) No building permit may be issued in any subdivision when the subdivision is not in compliance with the requirements of this chapter.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

Secs. 24-51 – 24-54. Reserved.
Sec. 24-55. Appeals

(a) The Utilities Committee of the Appleton Common Council shall hear and recommend to Council appeals where it is alleged that there is error in any order, decision or determination made by the City of Appleton in administering this ordinance except for cease and desist orders obtained under Sec. 24-50(e).

Upon appeal, the Committee may recommend to Council relief from the provisions of this ordinance that are not contrary to the public interest or provisions of state regulations, and where owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship.

(b) Who may appeal. Appeals to the Utilities Committee of the City of Appleton may be taken by any aggrieved person or by an officer, department, board or bureau of the City of Appleton affected by any decision of the City of Appleton. Written appeals shall be filed with the City Clerk. The Utilities Committee will make a recommendation within forty-five (45) calendar days of filing of the appeal. If the Utilities Committee takes no action within forty-five (45) calendar days, the appeal will automatically be sent to Council with a recommendation for approval. Either party may file a written request for a time extension with the City Clerk.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

Secs. 24-56 – 24-59. Reserved.

Sec. 24-60. Severability.

If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portion thereof of the ordinance which shall remain in full force and effect.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

*Editor’s Note: Chapter 24 was repealed and recreated by ordinance 180-04. This ordinance is effective as of January 1, 2005.

*Editor’s Note: Chapter 24 was repealed and recreated by ordinance 49-16. This ordinance is effective as of June 21, 2016.

(The next page is 2259.)