



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
www.appleton.org

## Meeting Agenda - Final Community & Economic Development Committee

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Wednesday, September 13, 2023

6:30 PM

Council Chambers, 6th Floor

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1. Call meeting to order
2. Pledge of Allegiance
3. Roll call of membership
4. Approval of minutes from previous meeting

[23-1055](#) CEDC Minutes from 8-9-23

Attachments: [CEDC Minutes 8-9-23.pdf](#)

### 5. Public Hearing/Apearances

### 6. Action Items

[23-0664](#) Resolution #6-R-23, Addition of Bird Safe Glass requirements to Appleton Municipal Code

Attachments: [#6-R-23 Bird Safe Glass Resolution-Final.pdf](#)

[Resolution 6-R-23 Bird Friendly Glass Response.pdf](#)

[Email re Stop the Fallout Campaign-Resolution 6-R-23 Bird Safe Glass.pdf](#)

Legislative History

8/9/23	Community & Economic Development Committee	held
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### 7. Information Items

### 8. Adjournment

*Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.*

*Any questions about items on this meeting are to be directed to Kara Homan, Director, Community and Economic Development Department at 920-832-6468.*

*Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.*





# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
www.appleton.org

## Meeting Minutes - Final Community & Economic Development Committee

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Wednesday, August 9, 2023

6:30 PM

Council Chambers, 6th Floor

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1. Call meeting to order

Chair Fenton called the meeting to order at 6:33 p.m.

2. Pledge of Allegiance

3. Roll call of membership

**Present:** 4 - Fenton, Jones, Thyssen and Wolff

**Excused:** 1 - Del Toro

*Others present:*

*Aldersperson Alex Schultz, District #9*

*Aldersperson Sheri Hartzheim, District #13*

4. Approval of minutes from previous meeting

[23-0938](#)

CEDC Minutes from 7-26-23

**Attachments:** [CEDC Minutes 7-26-23.pdf](#)

Jones moved, seconded by Thyssen, that the Minutes be approved. Roll Call.

Motion carried by the following vote:

**Aye:** 4 - Fenton, Jones, Thyssen and Wolff

**Excused:** 1 - Del Toro

5. Public Hearing/Appearances

6. Action Items

[23-0664](#)

Resolution #6-R-23, Addition of Bird Safe Glass requirements to Appleton Municipal Code

**Attachments:** [#6-R-23 Bird Safe Glass Resolution-Final.pdf](#)  
[Resolution 6-R-23 Bird Friendly Glass Response.pdf](#)

Fenton moved, seconded by Thyssen, that the Report Action Item be held until the September 13 CEDC meeting. Roll Call. Motion carried by the following vote:

**Aye:** 4 - Fenton, Jones, Thyssen and Wolff

**Excused:** 1 - Del Toro

## 7. Information Items

[23-0893](#)

Community & Economic Development Department Mid-Year 2023 Budget Report

**Attachments:** [2023 Mid Year Report Comm Econ Dev Dept.pdf](#)

This item was presented.

## 8. Adjournment

Wolff moved, seconded by Jones, that the meeting be adjourned at 6:46 p.m. Roll Call. Motion carried by the following vote:

**Aye:** 4 - Fenton, Jones, Thyssen and Wolff

**Excused:** 1 - Del Toro

## RESOLUTION #6-R-23

### Addition of Bird Safe Glass requirements to Appleton Municipal Code

**SUMMARY** resolution to add language to the Municipal building code which requires all future construction to analyze and address bird strike risk of large reflective glass surfaces, and also directs the City to evaluate and remediate existing window surfaces on public buildings which meet a certain threshold for bird strike risk and apply reasonable safety measures to these surfaces by 2025.

*Submitted By: Alderperson Schultz - District 9, Alderperson Meltzer - District 2, Alderperson Del Toro, District 4.*

*Date: June 7, 2023*

*Referred To: Community & Economic Development Dept., Parks, Recreation & Facilities Dept. & Legal Services Dept.*

**WHEREAS**, according to the Audubon Society, up to a billion birds die annually from collisions with windows in our buildings, with research showing that between 54-76% of window collisions are fatal, and;

**WHEREAS**, such deaths are entirely avoidable by incorporating bird-friendly glass, glass films which are readily available, affordable and nearly impossible to distinguish by humans, while being almost completely safe for birds, and

**WHEREAS**, the City of Appleton was designated a official Bird City in 2017 and has been recognized for its continuing work to support and sustain urban avian populations, and

**WHEREAS**, a significant number of urban commercial and residential buildings in Appleton incorporate large panes of glass with the capacity to injure or kill birds at a time when bird-friendly glass and glass film alternatives are widely available, yet may not have been available, considered cost-prohibitive or not even considered during construction, and

**WHEREAS**, on Aug. 4, 2020, the Madison Common Council unanimously adopted Wisconsin's first bird-friendly building ordinance which requires large new construction and expansion projects to use bird-safe strategies and materials, a template for developing bird-safe glass ordinance language, (Addendum A), now, therefore

**BE IT RESOLVED**, that the City of Appleton is hereby directed to develop and adopt new ordinance language to incorporate bird-safe glass building requirements and define acceptable window glass or glass treatments for any new construction of façades with a certain percentage of window area, and

**BE IT FURTHER RESOLVED**, that the City of Appleton include educational language on its website to inform and compel non-public entities, businesses and urban residential housing managers and owners whose existing buildings have glass panes which meet the bird-strike risk criteria, to do the same, and

**BE IT FURTHER RESOLVED**, that the City of Appleton evaluate and identify all public buildings with existing glass panes at heights and of surface areas which pose a danger for birds and then apply glass safety films or other bird-strike abatement measures over time:

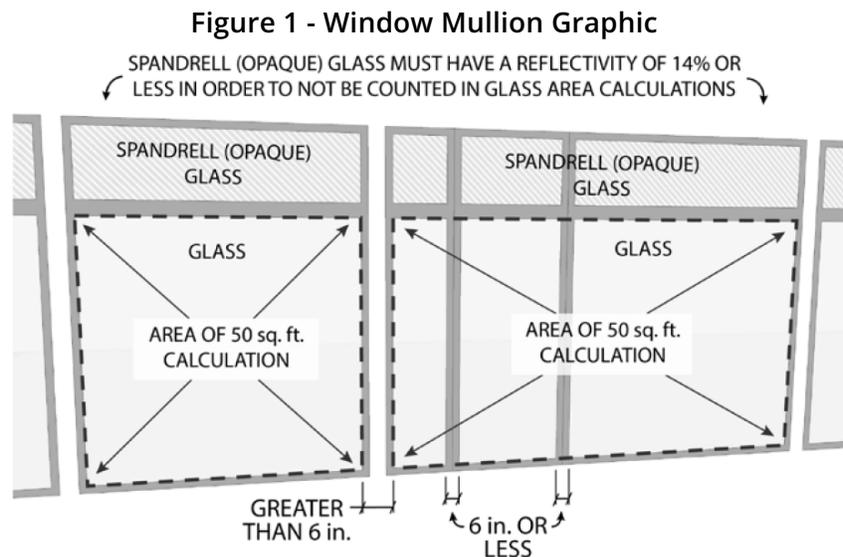
a. Anytime such a window is replaced in an existing building, it should be replaced with bird-friendly glass or treated with a glass film or abatement application alternative;

b. All such windows must be retrofired using bird-friendly glass or alternatives by 2025.

Alder Schultz - District 9  
Alder Meltzer - District 2  
Alder DelToro - District 4

## 28.129 - BIRD-SAFE GLASS REQUIREMENTS.

- (1) Statement of Purpose. The Bird-Safe Glass Requirements in this section are intended to reduce the heightened risk for bird collisions with glass on specified building designs and configurations.
- (2) Applicability. Subsection (4) applies to all exterior construction and development activity, including the expansion of existing buildings and structures, as specified therein.
- (3) Measuring Glass Area. Under this Ordinance, glass area shall be measured as one (1) continuous panel of glass or other transparent material, or a set of two (2) or more such panels divided by mullions of six (6) inches in width or narrower. Panels surrounded on all sides by solid walls or mullions wider than six (6) inches shall be considered individual windows. Spandrel or opaque glass with reflectivity of 14% or less shall not be included in the calculation of glass area. See Revised Figure 1. (Am by ORD-21-00073, 11-17-21)



- (4) Bird-Safe Glass Treatment Requirements. Glass areas on the following buildings or structures shall be treated to reduce the risk of bird collisions by incorporating a pattern of visual markers that are either: a) dots or other isolated shapes that are  $\frac{1}{4}$ " in diameter or larger and spaced at no more than a two-inch (2") by two-inch (2") pattern; or b) lines that are  $\frac{1}{8}$ " in width or greater and spaced no more than 2" apart; low reflectance opaque materials; building-integrated structures like non-glass double-skin facades, metal screens, fixed solar shading, exterior insect screens, and other features that cover the glass surface; or other similar mitigation treatments approved by the Zoning Administrator.
  - (a) Buildings or structures over 10,000 square feet. For any building or structure over 10,000 square feet in size (floor area of above-grade stories), bird-safe glass treatment is required as follows:
    1. For building façades where the first sixty (60) feet (see REVISED Figure 2) from grade

are comprised of greater than or equal to fifty percent (50%) glass:

- a. At least eighty-five percent (85%) of the glass must be treated; and
  - b. All glass within fifteen (15) feet of a building corner must be treated when see through or fly through conditions exist. See Figure 3.
2. For building façades where the first sixty (60) feet from grade are comprised of less than fifty percent (50%) glass:
    - a. At least eighty-five percent (85%) of the glass on glass areas fifty (50) square feet or over must be treated; and
    - b. Of all glass areas over fifty (50) square feet, any glass within fifteen (15) feet of a building corner must be treated.
  3. All glass railings must be treated.
  4. All glass on enclosed building connections shall be treated up to sixty (60) feet above-grade.
- (b) Sky-bridges. For buildings and structures of any size, all glass on above-ground bridges must be treated.
- (c) At-grade glass. For buildings and structures of any size, all at-grade glass features such as sound walls or glass screens must be treated."
- (5) This Ordinance shall become effective on October 1, 2020.

**Figure 2 - 60 ft. Graphic**

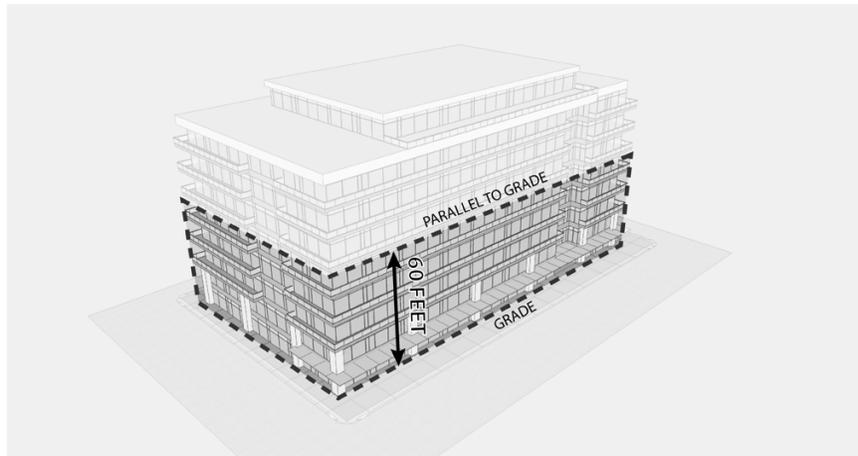
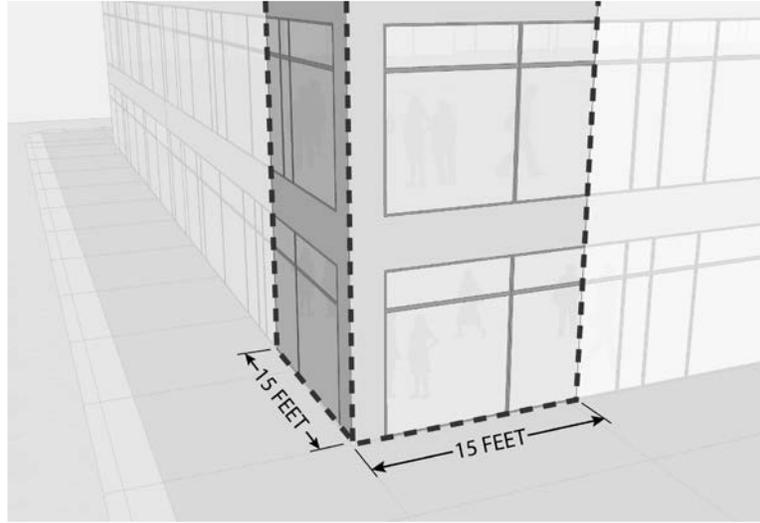


Figure 3 - Glass Corner Graphic



(Cr. by ORD-20-00069, 8-14-20)



“...meeting community needs...enhancing quality of life.”

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**OFFICE OF THE MAYOR**

Jacob A. Woodford  
100 North Appleton Street  
Appleton, Wisconsin 54911  
Phone: (920) 832-6400  
Email: [Mayor@Appleton.org](mailto:Mayor@Appleton.org)

**TO:** Ald. Denise Fenton; Community and Economic Development Committee Chair  
**FROM:** Mayor Jacob A. Woodford  
**DATE:** July 24, 2023  
**RE:** Resolution 6-R-23 – Bird Safe Glass

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Resolution 6-R-23 – Bird Safe Glass was introduced at Council on June 7, 2023 and referred to staff for review. While multiple departments were consulted on this Resolution, the enclosed memorandum from Attorney Behrens provides the clearest and most pertinent information for the committee’s consideration. Additionally, enclosed you will find an analysis of exterior glazing of City of Appleton-owned facilities with respect to some of the parameters of the proposed regulations.

Given the legal challenges similar legislation faces in the State of Wisconsin, staff were directed to minimize the scope of impact analysis to mitigate waste of taxpayer resources. There are also unanswered questions about the current impact of architecture and glass across the municipality that are beyond the capacity, expertise, and arguably the role of our local government. Should the Council decide to proceed with this legislation, provision will need to be made for external consultation as well as, eventually, mitigation of existing conditions in municipal buildings (which, alone is estimated at a minimum of \$25,000 based on the provisions of the Resolution).

Customarily, and in keeping with Council rules, Resolution concepts are reviewed with staff prior to introduction. Council Rule 4 states that “council members are encouraged to work with staff before introducing Resolutions in order to ensure that Resolutions are well-researched and ready for debate.”

While authors of 6-R-23 did discuss the concept with staff in early 2023, the Resolution was drafted and submitted despite feedback on pending litigation and potential problems with the example legislation cited. Whether the intent of Rule 4 was met in this case is a matter for the Council to decide, however, it is evident that the legislative process was initiated without regard for the counsel provided by staff.

This Resolution is referred to Council via the Community and Economic Development Committee, with the enclosed exhibits to aid in your consideration. Our recommendation is to, at a minimum, hold this item until the legality of the legislation is settled.



## LEGAL SERVICES DEPARTMENT

### Office of the City Attorney

100 North Appleton Street

Appleton, WI 54911

Phone: 920/832-6423

Fax: 920/832-5962

**TO:** Mayor Jacob A. Woodford

**FROM:** Christopher R. Behrens, City Attorney

**DATE:** July 18, 2023

**RE:** Resolution #6-R-23 – Addition of Bird Safe Glass Requirements to Appleton Municipal Code

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This resolution was introduced on June 7, 2023 and referred to various City departments for review and comment, including the Legal and Administrative Services Department. The resolution directs, among other things, that new ordinance language be developed and adopted “to incorporate bird-safe glass building requirements and define acceptable window glass or glass treatments for any new construction of facades with a certain percentage of window area.” The resolution’s authors include the City of Madison’s Bird-Safe Glass Requirements ordinance as an example.

Currently the Madison ordinance is facing a legal challenge that has made its way to the Court of Appeals. The matter has been briefed, but a decision hasn’t been issued as of the date of this memo. It is advisable to wait for direction from the courts as the challenges to the ordinance’s legality may have merit.

One challenge is that imposing glass requirements such as these is not statutorily permissible. Cities are prohibited from adopting a local-specific commercial building code, unless it is in *strict conformity* with the statewide code. *Wis. Stat. 101.02(7r)(a)*. As a result, since local-specific building codes are prohibited, the legislature made DSPS’s Commercial Building Code a uniform statewide building code. For a local ordinance to “strictly conform” it must not be “additional or more restrictive” than the DSP-adopted Commercial Building Code. *Wis. Admin. Code Sec. SPS361.03(5)(a)1*. The argument is that a local bird-safe glass requirement is additional to, and more restrictive than, the state-wide code contrary to the strict conformity standard.

Another challenge relates to whether the bird-safe glass ordinance is part of the zoning code as opposed to a building code. Madison frames its bird-safe glass ordinance as a zoning code which would avoid strict conformity requirements of local building regulations. Relying on a recent Wisconsin Supreme Court decision that identifies multiple characteristics required of a zoning regulation, the challengers address these characteristics arguing that Madison’s ordinance lacks most, if not all, of the characteristics of a typical zoning ordinance. In other words, the argument is that calling the bird-safe glass ordinance a zoning ordinance doesn’t make it so and therefore, it’s a building regulation subject to strict conformity.

My recommendation is to pause any action on this matter until the courts (the Court of Appeals and Supreme Court assuming the matter is further appealed) have weighed in on whether such regulations are legally permissible.

A23-0518

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Christopher R. Behrens  
City Attorney

Amanda K. Abshire  
Deputy City Attorney

Darrin M. Glad  
Assistant City Attorney

Zak Buruin  
Assistant City Attorney

CITY OF APPLETON

BIRD FRIENDLY GLASS REVIEW

SITE	ADDRESS	YEAR BUILT	SQ. FT.	>10,000 SQ. FT.	GLASS>50 sq. ft.	>50% GLASS	<50% GLASS	GLASS CORNER(S)	NOTES
<i>Fire Department Facilities</i>									
Fire Station #1	700 N. Drew St., 54911	1965	42,159	X			X		Mullions greater than 6".
Fire Station #2	1801 S. Matthias St., 54915	1982	8,280						
Fire Station #3	801 W. Grove St., 54915	1991	9,643						
Fire Station #4	724 E. Greenfield St., 54911	1961	9,130						
Fire Station #5	1701 W. Brewster St., 54914	1991	9,643						
Fire Station #6	4930 N. Lightning Dr., 54913	2001	13,360	X			X		No windows greater than 50 sq. ft.
Fire Station #6 - Garage	4930 N. Lightning Dr., 54913	2001	1,200						
Fire Station #6 - Training Tower	4930 N. Lightning Dr., 54913	2001	3,132						
<i>City Hall</i>									
City Hall (1st, 5th and 6th floors of City Center)	100 N. Appleton St., 54911	1960	56,562	X	X		X		Need to verify mullion sizes.
City Hall Dance Studios		Leased	6,344						
Municipal Services Building	2625 E. Glendale Ave., 54911	1966	140,403	X			X		No windows greater than 50 sq. ft.
Parks, Recreation & Facilities Management	1819 E. Witzke Blvd.	1981	39,560	X			X		No windows greater than 50 sq. ft.
Police Station	222 S. Walnut St., 54911	2009	63,144	X			X		No windows greater than 50 sq. ft.
Police Station Parking Deck	222 S. Walnut St., 54911	2009	49,920	X			X		No windows
Public Library	225 N. Oneida St., 54911	1981	98,609	X	X		X		New library.
Reid Golf Course Clubhouse	1100 E. Fremont St., 54915	1941	5,539						
Reid Golf Course Maintenance Facility	1200 E. South St., 54915	1992	7,829						
Reid Golf Course Storage Facility	1100 E. Fremont St., 54915	1992	4,000						
Reid Golf Course Pumphouse	1100 E. Fremont St., 54915	2007	224						
Reid Golf Course Rain Shelters	1100 E. Fremont St., 54915								
Transit Center	100 E. Washington St., 54911	1989	5,717						
Valley Transit	801 S. Whitman Ave., 54914	1982	41,783	X			X		No windows greater than 50 sq. ft.
<i>Utilities Facilities</i>									
Wastewater Treatment Plant	2006 E. Newberry St., 54915	1976	280,469	X			X		No windows greater than 50 sq. ft.
Water Treatment Plant	2281 Manitowoc Rd., 54952, Menasha	2002	173,232	X	X		X		
Lake Station	N8742 Fire Lane 1, 54952, Menasha	1964	1,491						
North Water Tower	6721 N. Ballard Rd., 54913	2002	1,596						
Glendale Water Tower	3300 E. Glendale Ave., 54911	2016							
<i>Public Works Storage Facilities</i>									
Storage for Street Materials & Chips	2625 E. Glendale Ave., 54911	1969	10,275	X			X		No windows.
Salt Storage Dome	2626 E. Glendale Ave., 54911	2001	7,854						
Salt Storage	2627 E. Glendale Ave., 54911	1971	6,840						
Frame Storage/Oil Storage Tanks	2627 E. Glendale Ave., 54911	1997	120						
Storage (Wood Frame, Metal Clad)	2628 E. Glendale Ave., 54911	1991	240						
Yardwaste Facility- Glendale	2629 E. Glendale Ave., 54911	1998	240						
Yardwaste Facility- Whitman	701 S. Whitman Ave., 54914	2010							
<i>Parking Structures</i>									
Red Ramp (Midtown Ramp)	134 S. Superior St., 54911		496,000	X			X		No windows.
Green Ramp (Washington St. Ramp)	315 W. Washington St., 54911		207,000	X			X		No windows.
Yellow Ramp (East Ramp)	130 E. Washington St., 54911		273,000	X	X		X	X	Skywalk and corners.
<i>Miscellaneous Facilities</i>									
Vulcan Hydro Electric Plant	530 S. Vulcan St., 54915	1882	150						
Mackville Storage Facility	W4915 CTH-O, 54913								
Lawe street Bridge Tender			576						
Olde Oneida Bridge Tender			576						
<i>Aquatics Facilities</i>									
Erb Pool	1800 N. Morrison St., 54911								
Bath house		2017	8,633						
Pool Equipment building		2017	2,713						
Mead Pool Bathhouse & Pumphouse	1430 E. John St., 5415	1992	15,710	X			X		No windows greater than 50 sq. ft.
<i>Parks Facilities</i>									
Alicia Park Pavilion	1301 W. Cedar St., 54914	1977	1,008						
Appleton Memorial Park Concession Facility	1620 E. Witzke Blvd., 54911	1974	6,724						
Appleton Memorial Park Electrical Service	1620 E. Witzke Blvd., 54911	1987	1,440						
Appleton Memorial Park Amphitheater	1620 E. Witzke Blvd., 54911	1987	1,190						
Appleton Memorial Park Observation Deck	1620 E. Witzke Blvd., 54911	1983	560						
Appleton Memorial Park Equipment Storage Facility	1620 E. Witzke Blvd., 54911	2012	864						
Appleton Memorial Park Restroom Facility	1620 E. Witzke Blvd., 54911	2014	830						
City Park Pavilion	500 E Franklin St., 54911	1952	560						
Colony Oaks Park Pavilion	801 N. Briarcliff Dr., 54915	1982	1,008						
Derks Park Pavilion	3220 E. Guyette St., 54915	2004	1,456						
Einstein Park Pavilion	3200 N. Durkee St., 54911	1977	386						
Erb Park Pavilion	1800 N. Morrison St., 54911	1950, 2017	3,057						
Green Meadows Park Pavilion	65 Pheasant Ct., 54915	1987	1,008						
Highview Park Pavilion	100 W. Wayfarer Ln., 54913	2000	1,200						
Hoover Park Pavilion	600 E. Roeland Ave., 54915	1997	288						
Jaycee Park Pavilion	1200 S. Jefferson St., 54915	1981	792						
Jones Park Pavilion	301 W. Lawrence St., 54911	1983	1,460						
Kiwanis Park Pavilion/Lift Station	2315 N. Nicholas St., 54914	???	2,000						
Linwood Park Pavilion	401 N. Douglas St., 54914	1998	1,428						
Lions Park Pavilion	1920 S. Matthias St., 54915	1971	1,008						
Lutz Park Restroom Facility	1320 Lutz Dr., 54914	2007	709						
Lutz Park Gazebo	1320 Lutz Dr., 54914	2012	358						
Peabody Park Pavilion	601 N. Greenbay Rd., 54911	1971	1,176						
Pierce Park Pavilion/Band Stand	1035 W. Prospect Ave., 54914	1944	7,345						
Pierce Park Gazebo	1036 W. Prospect Ave., 54914	1975	554						
Pierce Park Log Building	1037 W. Prospect Ave., 54914	???	405						
Pierce Park Restroom & Storage Facility	1038 W. Prospect Ave., 54914	2001	1,655						
Schaefer Park Pavilion	610 S. Buchanan St., 54915	1966	1,134						
Scheig Center	1313 E. Witzke Blvd., 54911	1995	5,658						
Telulah Park Pavilion, House Station (large)	1300 E. Newberry St., 54915	1940	2,418						
Telulah Park Kitchen	1301 E. Newberry St., 54915	2004	625						
Telulah Park Pavilion (small)	1302 E. Newberry St., 54915	1975	1,525						
Telulah Park Storage Facility	1303 E. Newberry St., 54915	1996	512						
Woodland Park Shelter	1815 Schaefer Cr., 54915	1985	900						

## Brenda Broeske

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**Subject:** FW: Window Stickers

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**From:** Katie Van Zeeland <[District5@Appleton.org](mailto:District5@Appleton.org)>  
**Sent:** Wednesday, August 30, 2023 4:12 PM  
**To:** Kami L. Lynch <[Kami.Lynch@Appleton.org](mailto:Kami.Lynch@Appleton.org)>  
**Cc:** Denise Fenton <[District6@Appleton.org](mailto:District6@Appleton.org)>; Kara J. Homan <[Kara.Homan@appleton.org](mailto:Kara.Homan@appleton.org)>  
**Subject:** Fwd: Window Stickers

Hi Kami,

Could you attach this email to item #23-0664 Resolution #6-R-23, Addition of Bird Safe Glass requirements to Appleton Municipal Code?

Thanks,

Katie

Katie Van Zeeland  
Aldersperson - District 5  
Common Council President 22-23  
[District5@Appleton.org](mailto:District5@Appleton.org)  
(920) 358-0501  
<https://www.facebook.com/AlderspersonVanZeeland>

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**From:** Charles Hagner <[director@birdcitywisconsin.org](mailto:director@birdcitywisconsin.org)>  
**Sent:** Wednesday, August 9, 2023 12:30 PM  
**To:** Katie Van Zeeland <[District5@Appleton.org](mailto:District5@Appleton.org)>  
**Subject:** Re: Window Stickers

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Alder Van Zeeland--

I bet you're referring to the Stop the Fallout Campaign being led by the Wisconsin Bird Conservation Partnership and SOS Save Our Songbirds. Bird City Wisconsin is a partner in both efforts. You can read about the campaign here:

Stop the Fallout  
<https://www.sossaveoursongbirds.org/stop-the-fallout>

As part of it, Acopian BirdSavers and Feather Friendly are offering discounts on their products, both of which have been shown to be highly effective at preventing bird-window collisions. I believe all anyone has to do to get the discount is enter a coupon code at checkout.

I hope this is helpful. Thanks for your interest.

--Chuck

Charles Hagner  
Director  
Bird City Wisconsin  
[www.birdcitywisconsin.org](http://www.birdcitywisconsin.org)

On Tue, Aug 8, 2023 at 8:50 AM Katie Van Zeeland <[District5@appleton.org](mailto:District5@appleton.org)> wrote:

Hi Charles,

I was wondering if you offer or are aware of a program that distributes the stickers that keep birds from striking windows?

Or perhaps, is there a Bird City USA decal made from this material?

Thanks,

Katie

Katie Van Zeeland  
Aldersperson - District 5  
Common Council President 22-23  
[District5@Appleton.org](mailto:District5@Appleton.org)  
(920) 358-0501  
<https://www.facebook.com/AlderspersonVanZeeland>

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