



"...meeting community needs...enhancing quality of life."

Department of Utilities
Wastewater Treatment Plant
2006 E Newberry Street
Appleton, WI 54915
920-832-5945 tel.
920-832-5949 fax

TO: Chairperson Greg Dannecker and Members of the Utilities Committee

CC: Utilities Director Chris Shaw

FROM: Environmental Programs Coordinator Brian Kreski

DATE: May 1, 2017

RE: *2016 Pretreatment Streamlining Changes for Wisconsin Industries and Municipal Pretreatment Programs. Amend City of Appleton Sewer Use Ordinance: Chapter 20*

The Appleton Wastewater Treatment Plant (AWWTP) has had a federally approved Pretreatment Program since October 1984 when the Wisconsin Department of Natural Resources (WDNR) granted approval. The General Pretreatment Regulations of the National Pretreatment Program require all large Publicly Owned Treatment Works (POTW) (i.e., those designed to treat flows of more than 5 million gallons per day) and smaller POTWs (that accept wastewater from Industrial Users (IUs) that could affect the treatment plant or its discharges) to establish local pretreatment programs. The fundamental premise of which is based on the fact that municipal wastewater treatment plants are designed to treat conventional pollutants which are contained in domestic wastewater. Therefore, pretreatment regulations have been developed as a means to ensure IUs are compatible with the POTW.

In 2014 the Environmental Protection Agency (EPA) streamlined its Pretreatment Regulations to reduce both monitoring and reporting requirements for some Industrial Users (IUs) and also the regulatory burden on POTW pretreatment programs. The streamlining changes have been subsequently adopted by the WDNR resulting in revisions to NR 211 Wisconsin Administrative Code (General Pretreatment Requirements).

The AWWTP was tasked by the WDNR to review the current the Pretreatment Program and administer necessary changes to both the Appleton Sewer Use Ordinance and IU permits to conform to streamlining changes adopted within NR 211. In June of 2016 Pretreatment Program staff submitted their amended documents for approval. On July 5, 2016 these changes were approved. Included with this memo is the City's Sewer Use Ordinance draft and the WDNR approval letter for your review. Finally, all new IU permits issued in May 2017 will reflect these changes.

Summary:

The industries and customers in Appleton are the driving force of our local economy and these streamlining changes may help reduce some regulatory burden. Appleton's Pretreatment Program has a commitment to improving the quality of service to our customers while protection of our treatment facility, infrastructure, and the environment. If you would like further information regarding streamlining changes feel free to contact Environmental Programs Coordinator Brian Kreski at ph: 832-5945.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



July 5, 2016

Mr. Brian Kreski
Appleton Wastewater Treatment Plant
2006 E. Newbury St.
Appleton, WI, 54915 - 2758



Subject: DNR Approval of Streamlining Changes to Appleton's Pretreatment Program

Dear Mr. Kreski:

The Department received proposed changes to the City of Appleton's Pretreatment Program on January 23, 2015, incorporating Streamlining changes required of it due to changes to ch. NR 211, Wis. Adm. Code, enacted in February of 2014. After reviewing those changes to the City's ordinance and industrial permits I emailed comments to you on June 2, 2016. You responded by email to those comments on July 1, 2016 and successfully addressed all of my comments. By this letter the Department approves these proposed changes to the City of Appleton's Pretreatment Program as originally submitted and subsequently amended. Please proceed with adopting these changes into the City's sewer use ordinance and its industrial permits, as they come up for reissuance.

Thank you for your diligence and cooperation throughout this process.

Sincerely,

A handwritten signature in blue ink that reads 'Robert Liska'.

Robert Liska
Wisconsin Pretreatment Coordinator
Wastewater Section
Water Quality Bureau
Wisconsin Department of Natural Resources
(☎) phone: (608) 267- 7631
(☎) fax: (608) 267- 2800
(✉) e-mail: Robert.Liska@wisconsin.gov

Quality Customer Service is Important to Us. Tell Us How We Are Doing.
Water Division Customer Service Survey
<https://www.surveymonkey.com/s/WDNRWater>

cc: Brian Kreski – Appleton POTW
Nan Jameson – DNR Green Bay

cc: Pretreatment File – WY/3

Chapter 20

UTILITIES*

- Art. I. In General, §§20-1—20-30**
- Art. II. Water Utility, §§20-31—20-65**
- Art. III. Sewers and Wastewater Disposal, §§20-66—20-200**
 - Div. 1. **General Provisions**, §§20-66—20-80
 - Div. 2. General Sewer Use Requirements, §§20-81—20-90
 - Div. 3. **Pretreatment of Wastewater**, §§20-91—20-100
 - Div. 4. **Wastewater Discharge Permit**, §§20-101—20-115
 - Div. 5. **Wastewater Discharge Permit Issuance Process**, §§20-116--20-140
 - Div. 6. **Reporting Requirements**, §§20-141—20-160
 - Div. 7. Compliance Monitoring, §§20-161—20-165
 - Div. 8. Confidential Information, §§20-166—20-170
 - Div. 9. **Publication of Users in Significant Noncompliance**, §§20-171 - 20-175
 - Div.10. Administrative Enforcement Remedies, §§20-176—20-185
 - Div.11. Judicial Enforcement Remedies, §§20-186—20-200
- Art. IV. Rates and Charges, §§20-201—20-209**
- Art. V. Stormwater Management Services, §§20-226—20-241**
 - Div. 1. General Provisions, §§20-226—20-235
 - Div. 2. Rates and Charges, §§20-236—20-242
- Art. VI.**
 - Div. 1. In General, §§20-300 – 20-310
 - Div. 2. Stormwater Management, §§20-311 – 20-320
 - Div. 3. Permitting and Fees, §§20-321 – 20-325
 - Div. 4. Enforcement and Appeals, §§20-326 – 20-330
 - Div. 5. Severability, §§20-331 – 20-332

*Charter ordinance reference--Board of Public Works, §3 -161 et seq.

Cross reference(s)--Destruction of utility records, §2 -1; Board of Public Works, §2 -91 et seq.; Director of Public Works, §2 -291 et seq.; Public Works Department, §2 -366 et seq.; buildings and building regulations, ch. 4; plumbing code, §4 -261 et seq.; mobile home parks required to connect to City water and sewer service, §11-74; special assessment procedure for public improvements, §18-101 et seq.

UTILITIES

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 all structures supplied with water by the Water Utility. The remote reading device shall be located on the outside of the structure in such a way that it can serviced and read from a paved walkway accessible year-round and kept free of ice and snow. The remote reading device may not be obstructed by shrubs or obstacles 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 Industry, Labor and Human Relations (DILHR), 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 level 2 confined space as defined by DILHR or OSHA or by January 1, 1997, whichever is sooner. 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)

***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 Utilities Committee shall introduce approximately one (1) to one and five-tenths (1.5) parts of fluoride to every million parts of water being distributed in the water supply system of the City, and include the cost in the determination of water rates.

(Code 1965, §12.09; Ord 67-95, §1, 5-17-95)

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.

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.

UTILITIES

(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 water pipe between the curb box and the meter, the Water Utility shall serve a written demand upon the property owner to repair the pipe within twenty-four (24) hours, and in the event of failure so to do the water service to the property shall be discontinued.

(Code 1965, §12.07)

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.** It shall be the duty of the City Water Utility to cause inspections to be made of 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 than 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)

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;

UTILITIES

- (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).

Secs. 20-43 – 20-65. Reserved.

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.

(Ord 60-94, §1, 5-4-94)

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.
(Ord 60-94, §1, 5-4-94)

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
- U.S.C. – United States Code

(Ord 60-94, §1, 5-4-94)

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.

Authorized representative of the user.

UTILITIES

- (1) If the user is a corporation:
 - a. The president, secretary, treasurer or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one (1) or more manufacturing, facilities provided the manager is authorized to make decisions which govern the operation of the facility, make major capital investment recommendations, initiate and direct comprehensive measures to assure long-term compliance with environmental laws, can ensure the necessary systems are established to gather complete and accurate information for the report and where authority to sign documents has been delegated to the manager according to the corporation's procedures, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty five million dollars (\$25,000,000) (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.
- (3) If the user is a federal, state or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs (1) through (3) above, may designate another authorized representative if the authorization is in writing, the authorization specified the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

Bypass. The intentional diversion of waste streams from any portion of an industrial user's treatment facility.

Biochemical oxygen demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures or five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration (e.g. mg/l).

Categorical pretreatment standard or categorical standard. Any regulation containing pollutant discharge limit promulgated by EPA in accordance with §§307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specified category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471 or promulgated under §147.07 Wis. Stats., by the Wisconsin Department of Natural Resources and set forth in Wis. Admin. Code NR 221 to 297.

City. The City of Appleton or the Common Council of the City of Appleton.

Director of Utilities. The person designated by the City to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this article, or a duly authorized representative.

Environmental Protection Agency or EPA. The U.S. Environmental Protection agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

Existing source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such sources if the standard is thereafter promulgated in accordance with §307 of the Act.

Grab sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Indirect discharge or discharge. The introduction of pollutants into the POTW from any nondomestic sources regulated under §307 (b), (c) or (d) of the Act.

Instantaneous maximum allowable discharge limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, directly or indirectly, both, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's WPDES permit (including an increase in the magnitude or duration of a violation), or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: §405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resources

APPLETON CODE

Conservation Recovery Act (RCRA); Chapters 144 and 147, Wis. Stats.; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection Research and Sanctuaries Act.

Medical waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

New source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under §307(c) of the Act which will be applicable to such source if standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production of wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraph (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - a. Begun, or caused to begin, as part of a continuous on-site construction program,
 - i. Any placement, assembly, or installation of

facilities or equipment; or

- ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Pass through. A discharge which exits the POTW into waters of the state of Wisconsin in quantities or concentrations which, alone or in conjunction with a discharge of discharges from other sources, is a cause of violation of any requirement of the City's WPDES permit, including an increase in the magnitude or duration of a violation.

Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewer sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, BOD, BOD, toxicity or odor).

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction of alteration can be obtained by physical, chemical or biological processes, by process changes or by other means,

UTILITIES

except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment imposed on user, other than a pretreatment standard.

Pretreatment standards or standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or prohibited discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in §20-81 of this article.

Publicly owned treatment works. A "treatment works" as defined by §212 of the Act (33 U.S.C. 1292) which is owned by the City of Appleton. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Septic tank waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

Severe property damage. Substantial physical damage to property or substantial damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

Significant industrial user:

- (1) A user to categorical pretreatment standards; or
- (2) A user that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant.
 - c. Is designated as such by the City on the basis that it has a reasonable potential for adversely

affecting the POTW's operation or for violating any pretreatment standard or requirement.

- (3) Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug load or slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in §20-81 of this article.

Standard Industrial Classification (SIC) code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

Stormwater. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquid, and which is removable by laboratory filtering.

User or industrial user. A source of indirect discharge.

Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institution, where treatment or untreated, which are contributed to the POTW.

Wastewater treatment plant or treatment plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (Ord 60-94, §1, 5-4-94)

Sec. 20-70. Significant industrial use designation.

The City shall designate users as significant industrial users according to the definition in §20-69. The City shall maintain a list of significant industrial users. The City shall provide this list to the Department of Natural Resources and shall notify the Department of changes to the list and reasons for the changes. (Ord 60-94, §1, 5-4-94)

Sec. 20-71. State and federal regulations.

In addition to complying with this article, users shall comply with all applicable pretreatment standards and

APPLETON CODE

requirements established by the U.S. Environmental Protection Agency and the Department of Natural Resources that supplement or supersede this article.

The City shall enforce all applicable pretreatment standards and requirements according to the requirements of the general pretreatment regulations: 40 CFR Part 403.8(f)(1) and Wis. Admin. Code NR 211.22. The City shall perform the following functions:

- (1) Deny or condition new or increased discharge of pollutants, or changes in the nature of pollutants discharged to the POTW by industrial users where such discharges do not meet applicable pretreatment standards and requirements or where such discharge causes the POTW to violate its WPDES permit.
- (2) Require compliance with applicable pretreatment standards and requirements by industrial users.
- (3) Control through permit, order or similar means the discharge to the POTW by each industrial user. Wastewater discharge permits shall be handled pursuant to division 4 of this article.
- (4) Require the development by industrial users of compliance schedules pursuant to §20-141(b)(7) of this article.
- (5) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent information supplied by industrial users, whether industrial users are complying with applicable pretreatment standards and requirements. These procedures are outlined in division 7 of this article.
- (6) Obtain remedies, including injunctive relief, for any industrial users
 - a. Noncompliance with any pretreatment standard or requirement;
 - b. Failure to allow the POTW to enter and to carry out inspections and monitoring activities;
 - c. Noncompliance with any reporting requirement imposed by the POTW or by Wis. Admin. Code NR 211.
- (7) Have the authority to seek or assess civil or criminal penalties pursuant to division 10 of this article.
- (8) After informal notice to the industrial user, immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appear to present an imminent danger to the health or welfare of persons pursuant to §20-183

and §20-184 of this article.

- (9) After notice of the industrial user and an opportunity to respond, halt or prevent any discharge to the POTW which endangers or may endanger the environment or which threatens to interfere with the operation of the POTW pursuant to §20-184 and §20-184 of this article.

- (10) Comply with confidentiality pursuant to division 8 of this article.

(Ord 60-94, §1, 5-4-94)

Sec. 20-72. Fees.

(a) The Director of Utilities may establish adequate and reasonable fees for the activities necessary to administer pretreatment standards and requirements or any other State or federal regulations. Fees may include, but are not limited to, fees for wastewater discharge permit application or renewal, fees for septage and other waste haulers permits, fees for discharging septage or other hauled waste and fees for industrial monitoring and laboratory analysis.

(b) The Director of Utilities and the Director of Finance for the City shall set forth the applicable fees in the City's schedule of charges and fees jointly for approved by the Common Council.

(Ord 60-94, §1, 5-4-94)

Secs. 20-73 – 20-80. Reserved.

UTILITIES

no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees (104°) F (40° C);

DIVISION 2. GENERAL SEWER USE REQUIREMENTS

Sec. 20-81. Prohibited discharge standards.

(a) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards for requirements.

(b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater.

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than one hundred forty degrees (140°) F (60° C) using the test methods specified in 40 CFR 261.21.
- (2) Pollutants that will cause corrosive structural damage to the sewerage system, including but not limited to discharges with a pH lower than 5.0 s.u. or higher than 12.4 s.u.
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the sewerage system or otherwise interfere with the operation of the POTW resulting in interference;
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- (5) Wastewater having a temperature greater than one hundred fifty degrees (150°) F (65° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in

- (6) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in concentrations greater than twenty-five (25) mg/l;
- (7) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated by the Director of Utilities in accordance with §20-194 of this article.
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with the other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts colors to the treatment plant's effluent.
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- (12) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, deionized water and unpolluted wastewater, unless specifically authorized by the Director of Utilities.
- (13) Sludge, screenings or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Director of Utilities in a wastewater discharge permit;
- (15) Wastewater causing, along or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

APPLETON CODE

- (17) Fats, oils or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l; or
- (18) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, or more than five percent (5%) or any single reading over ten percent (10%) of the lower explosive limit of the meter.
- (19) Condensate or non-contact cooling water except when generated by:
 - a. One- (1-) or Two- (2-) Family buildings, or
 - b. All other structures with non-conforming conditions under this section until such time that the structure undergoes repairs or renovations, the cost of which exceeds twenty percent (20%) of the structure's fair market value.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(c) *Inspections and right of entry.* In the discharge of his or her duties, the Director of Public Works or Director of Utilities, or an authorized representative, thereof, shall have the authority to enter, during reasonable hours, any building, structure or premises in the City to inspect for any violations of this section and enforce the provisions of this section for the purpose of any public protection. In addition to the foregoing, such inspections may be conducted in any of the following circumstances:

- (1) During such times that the City is in the process of replacing sanitary mains or laterals adjacent to a particular property;
- (2) During such times when City personnel, including but not limited to the Water Meter Crew, are required to enter a property for other business.
- (3) During such times when City personnel identify certain areas within the City that are experiencing unusually high levels of infiltration into the POTW.

(Ord 60-94, §1, 5-4-94, Ord 44-04, §1, 2-23-04, Ord 191-04, §1, 1-1-05)

Sec. 20-82. Categorical pretreatment standards.

- (a) Categorical pretreatment standards for specific point

source categories as set forth in 40 CFR Chapter I, subchapter N, or Wis. Admin. Code NR 221 to 297 shall apply. Fnoted otherwise in the categorical pretreatment standard.

- (b) Compliance dates.

- (1) All industrial users, except new sources, shall comply with the applicable categorical pretreatment standards within three (3) years from the effective date of the standard or within a shorter time period if specified in the applicable standard. A direct discharger which becomes an industrial user after promulgation of an applicable categorical pretreatment standard may not be considered a new source unless it falls within the definition of a "new source" contained in §20-69(p) of this article.
- (2) New sources shall install, have in operating condition and start up of all the pollution control equipment required to meet the applicable pretreatment standards before beginning discharge. Within the shortest feasible time, not to exceed ninety (90) days, new sources shall meet all applicable pretreatment standards.

(c) When the categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director of Utilities may impose equivalent concentration or mass limits in accordance within 40 CFR 403.6(c).

(d) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director of Utilities shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(e) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(f) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. (Ord 60-94, §1, 5-4-94)

Sec. 20-83. Local limits.

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following:

UTILITIES

Aluminum, total	70.0 mg/l
Arsenic, total	1.0 mg/l
Cadmium, total	0.3 mg/l
Chromium, total	7.0 mg/l
Copper, total	3.5 mg/l
Cyanide, total	0.3 mg/l
Lead, total	2.0 mg/l
Mercury, total	2.0 ug/l
	(microgram/liter)
Nickel, total	2.0 mg/l
Zinc, total	10.0 mg/l

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Director of Utilities may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(Ord 60-94, §1, 5-4-94; Ord 16-00, §1, 2-5-00)

Sec. 20-84. City's right of revision.

The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(Ord 60-94, §1, 5-4-94)

Sec. 20-85. Dilution.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director of Utilities may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord 60-94, §1, 5-4-94)

Sec. 20-86. Bypass.

(a) A bypass that does not result in a violation of any pretreatment standard or requirement is prohibited except where the bypass is necessary for essential maintenance.

(b) A bypass that results in a violation of any pretreatment standard or requirement is prohibited unless:

- (1) Bypass is necessary to prevent loss of life, personal injury or severe property damage;
- (2) No feasible alternatives to the bypass exist, such as use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime.

This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance; and

- (3) a. If an industrial user knows in advance of the need for a bypass, it notifies the control authority at least ten (10) days before the bypass if possible or otherwise as soon as possible; or
- b. An industrial user orally notifies the control authority of an unanticipated bypass within twenty-four (24) hours from the time the industrial user becomes aware of the bypass and provides a written submission, within five (5) days of the time the industrial user becomes aware of the bypass, containing:
 1. A description of the bypass and its cause;
 2. The duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the time it is expected to end; and
 3. A description of the steps taken or planned to prevent recurrence of the bypass.

(Ord 60-94, §1, 5-4-94)

Secs. 20-87 – 20-90. Reserved.

property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil and sand interceptors shall be provided when, in the opinion of the Director of Utilities, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director of Utilities and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at their expense.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
(Ord 60-94, §1, 5-4-94)

DIVISION 3. PRETREATMENT OF WASTEWATER

Sec. 20-91. Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in §20-81 of this article within the time limitations specified by EPA, the State or Director of Utilities, whichever is more stringent.

- (1) Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director of Utilities for review, and shall be acceptable to the Director of Utilities before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility for modifying such facilities are necessary to produce a discharge acceptable to the City under the provisions of this article.
- (2) The Department of Natural Resources has separate requirements for the review of plans, specifications and operating procedures of proposed pretreatment facilities. User shall comply with these requirements as well.

(Ord 60-94, §1, 5-4-94)

Sec. 20-92. Additional pretreatment measures.

(a) Whenever deemed necessary, the Director of Utilities may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate point of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.

(b) The Director of Utilities may require any person discharging into the POTW to install and maintain, on their

Sec. 20-93. Accidental discharge/slugs control plans.

~~At least once every two (2) years, the~~ The Director of Utilities shall evaluate whether such significant industrial user needs an accidental discharge/slugs control plan within one (1) year of being designated a significant industrial user. -The Director of Utilities may require any user to develop, submit for approval and implement such a plan. Alternatively, the Director of Utilities may develop such a plan for any user. An accidental discharge/slugs control plan shall address, at -a minimum, the following:

- (1) Description of discharge practices, including non-routine batch charges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Director of Utilities of any accidental or slug discharge, as required by §20-146 of this article; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures, or equipment measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord 60-94, §1, 5-4-94)

Sec. 20-94. Hauled wastewater.

- (a) Septic tank wastewater may be introduced into the

UTILITIES

POTW only at locations designated by the Director of Utilities, and at such times are established by the Director of Utilities. Such waste shall not violate division 2 of this article or any other requirements established by the City. The Director of Utilities may require septic tank waste haulers to obtain wastewater discharge permits. The Director of Utilities may collect samples of each hauled load to ensure compliance with applicable standards.

(b) The Director of Utilities shall require haulers of industrial waste to obtain wastewater discharge permits. The Director of Utilities may require generators of hauled industrial waste to obtain wastewater discharge permits. The Director of Utilities also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.

(c) Industrial waste haulers may discharge loads only at locations designated by the Director of Utilities. No load may be discharged without prior consent of the Director of Utilities. The Director of Utilities may collect samples of each hauled load to ensure compliance with applicable standards. The Director of Utilities may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a wastetracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents and whether any wastes are RCRA hazardous wastes. (Ord 60-94, §1, 5-4-94)

Secs. 20-95 – 20-100. Reserved.

DIVISION 4. WASTEWATER DISCHARGE PERMIT

Sec. 20-101. Wastewater discharge information requests.

When requested by the Director of Utilities, a user must submit information on the nature and characteristics of its wastewater within ninety (90) days of the request. The Director of Utilities is authorized to prepare a form for this purpose and may periodically require users to update this information. (Ord 60-94, §1, 5-4-94)

Sec. 20-102. Wastewater discharge permit requirement.

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director of Utilities, except that a significant industrial user that has filed a timely application pursuant to §20-103 of this article may continue to discharge for the time period specified therein.

(b) The Director of Utilities may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.

(c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subject the wastewater discharge permittee to the sanctions set out in divisions 10 and 11 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state or local law. (Ord 60-94, §1, 5-4-94)

Sec. 20-103. Wastewater discharging permitting – existing connections.

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within ninety

(90) days after said date, apply to the Director of Utilities for a wastewater discharge permit in accordance with §20-105 of this article, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this article except in accordance with a wastewater discharge permit issued by the Director of Utilities.

(Ord 60-94, §1, 5-4-94)

Sec. 20-104. Same – New connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with §20-105 of this article, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(Ord 60-94, §1, 5-4-94)

Sec. 20-105. Wastewater discharge permit application contents.

All users required to obtain a wastewater discharge permit must submit a permit application. The Director of Utilities may require all users to submit as part of an application the following information:

- (1) All information required by §20-141(b) of this article;
- (2) Description of activities, facilities and plat processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.
- (3) Number and type of employees, hours of operation and proposed or actual hours of operation;
- (4) Each product produced by type, amount, process or processes and rate of production;
- (5) Type and amount of raw materials processed (average and maximum per day);
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, and appurtenances by size, location and elevation and all points of discharge;
- (7) Time and duration of discharges; and
- (8) Any other information as may be deemed necessary by the Director of Utilities to elevate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user of revision.

(Ord 60-94, §1, 5-4-94)

Sec. 20-106. Application signatories and certification.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(Ord 60-94, §1, 5-4-94)

Sec. 20-107. Wastewater discharge permit decisions.

The Director of Utilities will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the Director of Utilities will determine whether or not to issue a wastewater discharge permit. The Director of Utilities may deny any application for a wastewater discharge permit.

(Ord 60-94, §1, 5-4-94)

Secs. 20-108 – 20-115. Reserved.

UTILITIES

sample type based on federal, state and local law; and

- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state and local law.

DIVISION 5. WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

Sec. 20-116. Wastewater discharge permit duration.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the decision of the Director of Utilities. Each wastewater discharge permit will indicate a specified date upon which it will expire.

(Ord 60-94, §1, 5-4-94)

Sec. 20-117. Wastewater discharge permit contents.

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director of Utilities to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal and protect against damage to the POTW.

(1) Wastewater discharge permits must contain:

- a. A statement that indicates wastewater permit duration, which in no event shall exceed five (5) years;
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with §20-130 of this article, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits based on applicable pretreatment standards;
- d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for low regulation and equalization;
- b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- h. Other conditions as deemed appropriate by the Director of Utilities to ensure compliance with this article, and state and federal laws, rules and regulations.

APPLETON CODE

(Ord 60-94, §1, 5-4-94)

Sec. 20-118. Wastewater discharge permit appeals.

The Director of Utilities shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Director of Utilities to reconsider the terms of a wastewater discharge permit within twenty (20) days of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (4) If the Director of Utilities fails to act within ninety (90) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Circuit Court of Outagamie County, Wisconsin.

(Ord 60-94, §1, 5-4-94)

Sec. 20-119. Wastewater discharge permit modification.

The Director of Utilities may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

- (4) Information indicating that the permitted discharge poses a threat to the public, the City's POTW, personnel or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reports;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(Ord 60-94, §1, 5-4-94)

Sec. 20-120. Wastewater discharge permit transfer.

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days advance notice to the Director of Utilities and the Director of Utilities approves the wastewater discharge permit transfer. The notice to the Director of Utilities must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of the facility transfer.

(Ord 60-94, §1, 5-4-94)

Sec. 20-121. Wastewater discharge permit revocation.

The Director of Utilities may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the Director of Utilities of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Director

UTILITIES

of Utilities of changed conditions pursuant to §20-145 of this article;

- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Director of Utilities timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.
(Ord 60-94, §1, 5-4-94)

Sec. 20-122. Wastewater discharge permit reissuance.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with §20-105 of this article, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.
(Ord 60-94, §1, 5-4-94)

Sec. 20-123. Regulation of waste received from other jurisdictions.

(a) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Director of Utilities shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by paragraph (a), above, the Director of Utilities shall request the following information from the contributing municipality:

- (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- (2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and
- (3) Such other information as the Director of Utilities may deem necessary.

(c) An intermunicipal agreement, as required by paragraph (a), above, shall continue the following conditions:

- (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are not at least as stringent as those set out in §20-84 of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes to the City's ordinance or local limits;
- (2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
- (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Director of Utilities; and which of these activities will be conducted jointly by the contributing municipality and the Director of Utilities;
- (4) A requirement for the contributing municipality to provide the Director of Utilities with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring the Director of Utilities

APPLETON CODE

access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling and any other duties deemed necessary by the Director of Utilities; and

- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(Ord 60-94, §1, 5-4-94)

Secs. 20-124 – 20-140. Reserved.

DIVISION 6. REPORTING REQUIREMENTS

Sec. 20-141. Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users subject to such standard currently discharging to or scheduled to discharge to the POTW shall submit to the Director of Utilities a report which contains the information listed in paragraph (b) below. At least ninety (90) days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director of Utilities a report which contains the information listed in paragraph (b) below. A new source shall also report the method of pretreatment it intends to use to meet applicable categorical standards and shall provide estimates of its anticipated flow and quality of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

- (1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.
- (2) *Environmental permits.* A list of any environmental control permits held by or for the facility.
- (3) *Description of operations.* A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as

UTILITIES

necessary, to allow use of the combined wastewater formula set out in 40 CFR 403.6(e).

(5) *Measurement of pollutants.*

- a. The categorical pretreatment standards applicable to each regulated process.
- b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director of Utilities, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §20-150 of this article.
- c. Sampling must be performed in accordance with procedures set out in §20-151 of this article.

(6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, including whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in §20-142 of this article.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with §20-106 of this article.

(Ord 60-94, §1, 5-4-94)

Sec. 20-142. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by §20-141(b)(7) of this article:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events including, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction and beginning and conducting routine operation);
- (2) No increment referred to above shall exceed nine (9) months;
- (3) The user shall submit a progress report to the Director of Utilities no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (4) In no event shall more than nine (9) months elapse between such progress reports to the Director of Utilities.

(Ord 60-94, §1, 5-4-94)

Sec. 20-143. Reports on compliance with categorical pretreatment standard deadline.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director of Utilities a report containing the information described in §§20-141(b)(4) – (6) of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed terms of allowable pollutants discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §20-106 of this article.

(Ord 60-94, §1, 5-4-94)

Sec. 20-144. Periodic compliance reports.

(a) All significant industrial users shall, at a frequency determined by the Director of Utilities but in no case less than twice per year (in June and December), submit a report

indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with §20-106 of this article.

(b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(c) If a user subject to the reporting requirement in this section monitors any pollutant, more frequently than required by the Director of Utilities, using the procedures prescribed in §20-151 of this article, the results of this monitoring shall be included in this report.
(Ord 60-94, §1, 5-4-94)

Sec. 20-145. Reports of changed conditions.

Each user must notify the Director of Utilities of any planned significant changes to the user's operation or system which might alter the nature, quality, or volume of its wastewater at least (90) days before the change. The list shall include the discharge of those listed or characterized hazardous wastes for which the user has submitted initial notification under 40 CFR 40.12(p) or §20-145 of this article.

- (1) The Director of Utilities may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under §20-105 of this article.
- (2) The Director of Utilities may issue a wastewater discharge permit under §20-107 of this article or modify an existing wastewater discharge permit under §20-109 of this article in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes including, but are not limited to, flow increases of twenty percent (20%) or greater, the discharge of any previously unreported pollutants, and long term production rate changes of twenty percent (20%) or more.

(Ord 60-94, §1, 5-4-94)

Sec. 20-146. Reports of potential problems.

(a) Users will notify the Director of Utilities immediately of any changes at its facility affecting the

potential for a slug discharge or if in the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomarily batch discharge or slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of Utilities of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the Director of Utilities, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this ordinance.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a) above. Employers shall ensure that all employees who may cause a discharge to occur are advised of the emergency notification procedure.
(Ord 60-94, §1, 5-4-94)

Sec. 20-147. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director of Utilities as the Director of Utilities may require.
(Ord 60-94, §1, 5-4-94)

Sec. 20-148. Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the Director of Utilities within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director of Utilities within thirty (30) days after becoming aware of the violation. The user is not required to re-sample if the Director of Utilities monitors at the user's facility at least once a month, or if the Director of Utilities samples between the user's initial sampling and when the user receives the results of this sampling. Where the City has performed the original sampling and analysis in lieu of the industrial user, as allowed in NR 211.15 (9), Wis. Adm. Code, to perform repeat analysis.
(Ord 60-94, §1, 5-4-94)

Sec. 20-149. Notification of the discharge of hazardous

UTILITIES

waste.

(a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director and DNR Bureau of Hazardous Waste Management, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under §20-145 of this article. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §20-141, §20-143 and §20-144 of this article.

(b) Dischargers are exempt from the requirements of paragraph (a) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous wastes do not require additional notification.

(c) In case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste, the user must notify the Director of Utilities, the EPA Regional Waste Management Waste Division Director, the State Hazardous Waste Authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes

generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.
(Ord 60-94, §1, 5-4-94)

Sec. 20-150. Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
(Ord 60-94, §1, 5-4-94)

Sec. 20-151. Sample collection.

(a) Except as indicated in paragraph (b) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event low proportional sampling is infeasible, the Director of Utilities may authorize the use of time proportional sampling or a ~~minimum of four (4)~~ grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.
(Ord 60-94, §1, 5-4-94)

Sec. 20-152. Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
(Ord 60-94, §1, 5-4-94)

Sec. 20-153. Record keeping.

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of

APPLETON CODE

such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the result of each analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Director of Utilities.
(Ord 60-94, §1, 5-4-94)

Secs. 20-154 – 20-160. Reserved.

DIVISION 7. COMPLIANCE MONITORING

Sec. 20-161. Right of entry; inspection and sampling.

The Director of Utilities shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the Director of Utilities ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards to that, upon presentation of suitable identification, the Director of Utilities will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (2) The Director of Utilities shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (3) The Director of Utilities may require the user to locate, construct, install and maintain monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.
 - a. If a user is required by the Director of Utilities to locate, construct and install monitoring facilities, the user shall do so according to the requirements of the Director of Utilities and any

UTILITIES

other local building codes. A design of the monitoring facilities shall be submitted for the approval of the Director of Utilities prior to construction of the facilities.

- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or samples shall be promptly removed by the user at the written or verbal request of the Director of Utilities and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (5) Unreasonable delays in allowing the Director of Utilities access to the user's premises shall be a violation of this article.
(Ord 60-94, §1, 5-4-94)

Sec. 20-162. Search warrants.

If the Director of Utilities has been refused access to a building, structure or property, or any part thereof, the Director of Utilities may seek issuance of a special inspection warrant, pursuant to Chapter 66 of the Wisconsin Statutes, from the Circuit Court of Outagamie County, Wisconsin.
(Ord 60-94, §1, 5-4-94)

Secs. 20-163 – 20-165. Reserved.

DIVISION 8. CONFIDENTIAL INFORMATION

Sec. 20-166. Generally.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs, and from the Director of Utilities inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Director of Utilities, that the release of such information would divulge that the information, processes or methods of productions entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information shall be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available immediately upon request to governmental agencies for uses related to the WPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.
(Ord 60-94, §1, 5-4-94)

Secs. 20-167 – 20-170. Reserved.

has resulted in the Director of Utilities' exercise of its emergency authority to halt or prevent such a discharge;

- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within ~~forty five (45) ninety (90)~~ days after the due date, any required reports, including baseline monitoring report, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s) which the Director of Utilities determines will adversely affect the operation or implementation of the local pretreatment program.

DIVISION 9. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

Sec. 20-171. Generally.

The Director of Utilities shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. A significant industrial user has been in significant non-compliance if any of the following apply; and, a non-significant industrial user has been in significant non-compliance if (3), (4) or (8) apply: The term significant noncompliance shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6-) month period exceed the daily maximum limit for the same pollutant parameter by any amount;
- (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4) for BOD, TSS, fats, oils and grease, and (1.2) for all other pollutants except pH.
- (3) Any other discharge violation that the Director of Utilities believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.
- (4) Any discharge of pollutants that has imminent endangerment to the public or the environment, or

Secs. 20-172 – 20-175. Reserved.

UTILITIES

relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Director of Utilities to take any action, including emergency actions or any other enforcement action without first issuing a notice of noncompliance.

(Ord 60-94, §1, 5-4-94)

Sec. 20-178. Consent orders.

The Director of Utilities may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include a specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §20-179 and §20-180 of this article and shall be judicially enforceable.

(Ord 60-94, §1, 5-4-94)

Sec. 20-179. Show cause hearing.

The Director of Utilities may order a user which has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director of Utilities and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(Ord 60-94, §1, 5-4-94)

Sec. 20-180. Compliance orders.

When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Director of Utilities may issue an order to the user responsible for the discharge directing that the user come into compliance with a specified time. If the user does not come into compliance within the time provided, sewer service may be discounted unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the

DIVISION 10. ADMINISTRATIVE ENFORCEMENT REMEDIES

Sec. 20-176. Notice of noncompliance.

When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued herein, or any other pretreatment standard or requirement, the Director of Utilities may serve upon that user a written notice of noncompliance. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director of Utilities. Submission of this plan in no way relieves the user of liability for any violations occurring before or after the receipt of the notice of noncompliance. Nothing in this section shall limit the authority of the Director of Utilities to take any action, including emergency actions or any other enforcement action without first issuing a notice of noncompliance.

(Ord 60-94, §1, 5-4-94)

Sec. 20-177. Notification of violation.

When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder of any other pretreatment standard or requirement, and has failed to provide an acceptable plan for corrective action as required in §20-176, the Director of Utilities may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of this notice, an explanation of the violation and plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by this user to the Director of Utilities. Submission of this plan in no way

noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord 60-94, §1, 5-4-94)

Sec. 20-181. Cease and desist orders.

When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director of Utilities may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge;
- (3) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord 60-94, §1, 5-4-94)

Sec. 20-182. Administrative penalties.

(a) When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Director of Utilities may charge a penalty to such user in an amount not to exceed ten thousand dollars (\$10,000) per day. Such penalties shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, penalties shall be assessed for each day during the period of violation.

(b) Unpaid charges and penalties shall, after thirty (30) days, be assessed an additional penalty of one percent (1%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the user's property will be sought for unpaid charges and penalties.

(c) Users desiring to dispute such penalties must file a written request for the Director of Utilities to reconsider the penalty along with full payment of the penalty amount

within ten (10) days of being notified of the penalty. Where a request has merit, the Director of Utilities may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Director of Utilities may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.

(d) Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord 60-94, §1, 5-4-94)

Sec. 20-183. Emergency suspensions.

The Director of Utilities may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director of Utilities may also immediately suspend a user's discharge, after notice and opportunity to respond, that threaten to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director of Utilities may take such steps as deemed necessary, including immediate suspension order, the Director of Utilities may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The Director of Utilities may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director of Utilities that the period of endangerment has passed, unless the termination proceedings in §20-183 of this article are initiated against the user.

(2) A user 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 contribution and the measures taken to prevent any future occurrence, to the Director of Utilities prior to the date of any show cause or termination hearing under §20-178 or §20-183 of this article.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

UTILITIES

(Ord 60-94, §1, 5-4-94)

Sec. 20-184. Termination of discharge.

In addition to the provisions of §20-131 of this article, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristic prior to discharge;
- (4) Refusal of reasonably access to the user's premises for the purpose of inspection, monitoring or sampling; or
- (5) Violation of the pretreatment standards in division 2 of this article.

Such user shall be notified for the proposed termination of its discharge and be offered an opportunity to show cause under §20-178 of this article why the proposed action should not be taken. Exercise of this option by the Director of Utilities shall not be a bar to, or a prerequisite for, taking any other action against the user.

Sec. 20-185. Reserved.

DIVISION 11. JUDICIAL ENFORCEMENT REMEDIES

Sec. 20-186. Injunctive relief.

When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued thereunder or any other pretreatment standard or requirement, the Director of Utilities may petition the Circuit Court for Outagamie County through the Appleton City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this article on activities of the user. The Director of Utilities may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief, including a requirement for the user to conduct environmental remediation. A petition for relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Ord 60-94, §1, 5-4-94)

Sec. 20-187. Civil penalties.

(a) A user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement shall be liable to the City of Appleton for a maximum civil penalty of ten thousand dollars (\$10,000) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The Director of Utilities may recover reasonable

APPLETON CODE

attorneys' fees, court costs and other expenses associated with enforcement activities including sampling and monitoring expenses and the cost of any actual damages incurred by the City of Appleton.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation; corrective actions by the user, the compliance history of the user and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
(Ord 60-94, §1, 5-4-94)

Sec. 20-188. Criminal prosecution.

Any user alleged to be in violation of the criminal laws of the state of Wisconsin shall be referred to the District Attorney's Office for review and possible criminal prosecution.
(Ord 60-94, §1, 5-4-94)

Sec. 20-189. Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The Director of Utilities may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Director of Utilities may take other action against any user when the circumstances warrant. Further, the Director of Utilities is empowered to take more than one (1) enforcement action against any noncompliant user.
(Ord 60-94, §1, 5-4-94)

Secs. 20-190 – 20-200. Reserved.

ARTICLE IV. RATES AND CHARGES*

Sec. 20-201. 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:

Commercial user means any property used primarily for the conduct of business or for the purpose of buying or selling goods or services.

Debt retirement costs means the annual payment of principal and interest due for the retirement of revenue bonds issued to finance the cost of capital improvements to the sewage system.

Industrial user means any nongovernmental user of the City wastewater treatment works listed in Division A, B, D, E and I of the Standard Industrial Classification Manual of the Office of Management and Budget.

Municipal user means any facility owned and operated by the City municipal corporation or any other municipal agencies.

Operation and maintenance costs means all direct and indirect costs, exclusive of debt service costs, necessary to ensure adequate wastewater treatment on a continuing basis in conformance with state, federal and local requirements and to ensure optional long-term facility management.

Person means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

UTILITIES

Replacement costs means those expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance of which such works are designed and constructed, and shall be considered to be part of operation and maintenance costs.

Sanitary sewage means the combination of liquid and water-carried waste discharged from sanitary plumbing facilities.

Sanitary sewer service charge means a charge levied on users of the treatment works for the cost of retiring sewage system revenue bonds and the cost of operating, maintaining and repairing the sewage system and treatment works.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwater, surface water, stormwater and clear water as may be present.

User charge means a charge levied on users of the treatment works for the costs of operation and maintenance of such works as defined in §35.905-26, Title 40 U.S.C. and is contained within the sanitary sewer service charges as created by this article.

Wastewater treatment plant means any arrangement of devices and structures used for treating sewage.

Watercourse means a channel in which flow of water occurs, either continuously or intermittently.
(Code 1965, §2.11(9); Ord 59-94, §1, 5-4-94)

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

Sec. 20-202. Imposed.

It is hereby determined and declared to be necessary for the protection of the health, safety and welfare of the public to allocate all of the cost of collection and treatment of sewage and use of the sewage system of the City to the property served. The cost of such service shall be imposed on the property served as a special charge for current serviced rendered and shall be known as sewer service charges and such charges are hereby imposed by the provisions of this article and W.S.A. §66.0627. For purposes of this article, sewage system shall include without limitation all facilities within or without the City for the collection, transportation, pumping, treatment and disposition of sewage and water-carried wastes created in and to be conducted away from residential, commercial and industrial establishments and public, private and charitable

buildings of all kinds. The sewer service charge imposed by this article shall apply equally to all users of the sewer system and shall be such that each user shall pay in direct proportion to the service received. The sewer service charge shall take precedence over any other existing agreements.

(Code 1965, §2.11(1); Ord 59-94, §1, 5-4-94)

Sec. 20-203. Basis.

The sewer service charges imposed by this article shall be based on either one of the following:

- (1) The water meter readings of the City Department of Utilities Water Division, plus the water used by each industry or other user from all other sources such as wells, rivers and the like. Measurement of any such additional water other than water division meter readings, shall be by meter, weir or other measuring device approved by the Utilities Manager and installed by the industry or user at his own expense.
- (2) The quantity and quality of sewage discharged into the sewage system. The quantity of sewage shall be measured by meter, weir or other measuring device approved by the Utilities Manager and installed by the industry or user at its own expense. The quality of sewage shall be measured by the pounds of suspended solids and the pounds of biochemical oxygen demand (BOD) contained therein. The determination of suspended solids and BOD contained in the waste shall be in accordance with guidelines approved by the EPA and DNR establishing test procedures for the analysis of pollutants. To determine the quality of the sewage and waste, samplings and analyses of twenty-four (24) composite samples shall be made daily by and at the expense of the industry or user and accumulated over the billing period. The City shall have the right to access all measurement and analytical facilities and shall cause sufficient tests to be made to establish the validity of the information being supplied.

The selection of either alternative basis of charges as set out in subsections (1) and (2) of this section shall be made upon the direction of the Utilities Manager.

(Code 1965, §2.11(2); Ord 59-94, §1, 5-4-94)

Sec. 20-204. Rates.

(a) The sewer service charges imposed by this article shall be based upon the rates adopted by the Common Council. The rates shall be reviewed at least once annually and shall be such that they produce sufficient revenue to meet all costs budgeted for their effective time period. The

users of the sewer service shall be notified annually of the portion of user charges attributable to wastewater treatment services. Said rates shall be on file in the Office of the City Clerk.

(b) The City shall determine the strength of normal domestic waste from its non-monitored customers by subtracting the industrial monitored loading by parameter from the total loading treated by the City. The net pounds of biochemical oxygen demand (BOD) and total suspended solids from the non-monitored customers shall be divided by 8.34 (a conversion factor) and then divided by the net billable flow (expressed in millions of gallons) from those non-monitored customers to determine whether the strength of the waste is within a reasonable range for a normal domestic household. The City will consider normal domestic strength waste to have a BOD concentration of not more than three hundred (300) milligrams per liter. Should this calculation for BOD be higher than three hundred (300) milligrams per liter, a review will be done of the city users to determine if there are additional users that should be monitored for high strength water. This methodology shall be followed to assure that the charges are proportionately made to all customers. No users shall pay less per one thousand (1,000) gallons than the current effective rate associated with the per unit costs for environmental treatment based on the waste characteristics determined to be applicable for domestic or industrial users.

(Code 1965, §2.11(3); Ord 1-90, §1, 1-10-90; Ord 99-91, §1, 9-18-91; Ord 146-91, §1, 12-18-91; Ord 17-92, §1, 3-4-92; Ord 59-94, §1, 5-4-94; Ord 63-94, §1, 6-4-94, Ord 17-00, §1, 2-5-00)

Sec. 20-205. Exceptions and modifications of charges.

In cases where there is no water meter or acceptable water consumption record the quantity of water used shall be determined in such reasonable and accurate manner as the Utilities Manager may direct and the charge shall be computed. If any building discharging sanitary sewage, industrial wastes, water and other liquid, directly or indirectly, into the public sanitary sewerage system can show to the satisfaction of the Utilities Manager that a portion of the water used does not and cannot enter the public sanitary sewage system, the City may determine by a reasonable and accurate method, the amount of the water used or the percentage of water entering the public sanitary sewage system chargeable to such owner or user. Such amount or percentage, when so determined, shall then constitute the basis of sewer service charges. Any additional meter required to determine the quantity of water actually entering the sewage system shall be installed at the expense of the owner or other interested party.

(Code 1965, §2.11(5); Ord 59-94, §1, 5-4-94)

Sec. 20-206. Collections.

(a) The City Department of Finance is hereby authorized as the collection agency for the City and the industrial monitoring and sewer service charges shall be collected quarterly at the same time as water payments become due. Bills shall be prepared by the Department of Finance and sent to the owner or occupant of each premises served by a public sanitary sewer. If partial payment is made on any bill, the payment shall apply equally to the water and sewer portions of the bill. The Department of Finance shall allocate the actual cost of billing and collecting.

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

(Code 1965, §2.11(6); Ord 76-93, §1, 4-21-93; Ord 59-94, §1, 5-4-94)

Sec. 20-207. Lien for delinquent charges.

(a) Industrial monitoring and sewer service charges shall not be payable in installments. If industrial monitoring and sewer service charges remain unpaid after a period of thirty (30) days from the date of this invoice, such charge shall become a delinquent special charge and shall become a lien as provided in W.S.A. §66.0703(15) as of the date of delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge. Unpaid charges shall bear interest at the rate of one and one-half percent (1.5%) per month from the date of delinquency.

(b) Sewer service charges shall not be payable in installments. If sewer service charges remain unpaid after a period of twenty (20) days from the date of utility bill, such bill shall become a delinquent special charge and shall become a lien as provided in W.S.A. §66.0703(15). Said charges shall automatically be extended upon the current or next tax roll as a delinquent tax against the property; and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charges. Unpaid charges shall be assessed a one and one percent (1%) per month late payment charge to bills not paid within twenty (20) days of issuance. (Ord 30-00, §1, 4-22-00)

UTILITIES

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

(Code 1965, §2.11(7); Ord 131-92, §1, 12-2-92; Ord 28-94, §1, 1-5-94; Ord 59-94, §1, 5-4-94)

Sec. 20-208. Sewage utility charges fund.

(a) There is hereby created a special fund to be known as the City of Appleton Sewage Utility for the purpose of meeting all necessary expenses of operating, maintaining and repairing the sewage system and all costs of collection and treatment of sewage and for payment of revenue bonds issued for the improvements or expansion of the sewage system. All sewer service charges collected by the Director of Finance shall be entered into this fund together with all such charges which are collected as delinquent taxes pursuant §20-207 and all proceeds resulting from the same of revenue bonds issued for improvement of expansion of the sewage system. Money in the fund shall be used solely for the purpose of paying principal and interest of sewage system revenue bonds and costs of collection and treatment of sewage and costs of operating, maintaining and repairing the sewage system, and the sanitary sewer service charge shall be the sole source of revenue for all such funds. The Department of Finance shall install and maintain records of the fund.

(b) No less than once each calendar year there shall be an audit of the fund to establish:

- (1) The sufficiency of revenues generated to cover all operating, maintenance and debt retirement costs.
- (2) That the charges to all classes of users are proportionate and equitable.
- (3) The proper level of funding for replacement costs.

(c) The fund shall be divided into an operating and maintenance fund, a depreciation fund and a special redemption fund in a manner provided by W.S.A. §66.662(2). Each of these funds shall be maintained at sufficient levels to meet their respective needs and money allocated to operation, maintenance and replacement costs shall be used solely for that purpose.

(Code 1965, §2.11(8); Ord 4-93, §1, 1-6-93; Ord 76-93, §1, 4-21-93; Ord 59-94, §1, 5-4-94)

Sec. 20-209. Industrial monitoring charges.

(a) *Purpose.* It is the purpose of this section to provide for the recovery of costs from the users of the City's POTW

for the implementation of the program established in this article. The applicable charges or fees shall be set forth in the City's schedule of charges and fees, to be jointly prepared annually by the Utilities Manager and Director of Finance and approved by the Common Council.

(b) *Authorized; amount.* The City may adopt charges and fees which may include:

- (1) *Permit fee.* The City will charge the industries that are required to have a wastewater discharge permit a permit fee for an original permit and a permit reissuance fee for permit reissuance. The amount of said fees will be on file in the City Clerk's Office.
- (2) *Sampling charge.* The City will assess the industries a sampling charge for sampling their wastewater with City equipment and manpower. The sampling charges will be on file in the City Clerk's Office.
- (3) *Laboratory analysis charge.* The City will assess the industries a laboratory analysis charge to recover the City's expense for analyzing the industrial wastewater discharge samples for specific pollutants. The fee schedule for analysis of specific pollutants will be on file in the City Clerk's Office.

(c) *Collection.* The collection of industrial monitoring charges shall be pursuant to §20-206.

(d) *Lien for delinquent charges.* The administering of liens for delinquent charges under this section shall be pursuant to §20-207.

(Code 1965, §2.12; Ord 101-91, §1, 9-18-91; Ord 4-93, §1, 1-6-93; Ord 59-94, §1, 5-4-94)

Sec. 20-227. Establishment.

There is hereby established a City of Appleton Stormwater Utility. The operation of the Stormwater Utility shall be under the supervision of the Common Council. The Director of Public Works will be in charge of the Stormwater Utility.

Sec. 20-228. Authority.

The City, through the Stormwater Utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities as are deemed by the City to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation by enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls and ponds and such other facilities as will support a stormwater management system.

Sec. 20-229. Definitions.

For the purpose of this ordinance, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense; the work "shall" is mandatory and not discretionary; the work "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

Director. The term "Director" means the Director of Public Works or his designee.

Equivalent Runoff Unit (ERU). The term "ERU" means the statistical average horizontal impervious area of "single family homes" (single family and mobile homes) within the City of Appleton on the date of adoption of this ordinance. The horizontal impervious area includes, but is not limited to all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks.

Impervious Area or Impervious Surface. These terms mean a horizontal surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rain water. It includes, but is not limited to, semi-impervious surfaces such as compacted clay, as well as streets, roofs, sidewalks, parking lots and other similar surfaces.

Duplex unit. The term "duplex unit" means any residential space identified for habitation by members of the same family attached to only one other residential space or as classified by the City Building Code.

Dwelling unit. The term "dwelling unit" means any

ARTICLE V. STORMWATER MANAGEMENT SERVICES

DIVISION 1. GENERAL PROVISIONS

Sec. 20-226. Findings and necessity.

The City of Appleton finds that the management of stormwater and other surface water discharge within and beyond the Fox River is a matter that affects the health, safety and welfare of the City, its citizens and businesses and others in the surrounding area. Failure to effectively manage stormwater affects the sanitary sewer utility operations of the City by, among other things, increasing the likelihood of infiltration and inflow in the sanitary sewer. In addition, surface water runoff may create erosion of lands, threaten businesses and residences with water damage and create sedimentation and other environmental damage in the Fox River. Those elements of the system which provide for the collection of and disposal of stormwater and regulation of groundwater are of benefit and provide services to all property within the City of Appleton, including property not presently served by the storm elements of the system. The cost of operating and maintaining the City stormwater management system and financing necessary repairs, replacements, improvements and extension thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom. In order to protect the health, safety and welfare of the public, the Common Council is exercising its authority to establish a stormwater utility and set the rates for stormwater management services. The City is acting under the authority of Chapters 62 and 66 of the Wisconsin Statutes, and particularly at least the following statutes: §62.04, §62.11, §62.16(2), §62.18, §66.0621, §66.0809 and §66.0821.

UTILITIES

residential space identified for habitation by members of the same family or as classified by the City Building Code. A dwelling unit includes, but is not limited to, all duplexes, apartments, residential condominiums and townhouse living units.

Multifamily unit. The term “multifamily unit” means any residential space identified for habitation by members of the same family or as classified by the City Building Code. A dwelling unit includes, but is not limited to, all duplexes, apartments, residential condominiums and townhouse living units.

Residential property. The term “residential property” means any lot or parcel developed exclusively for residential purposes including, but not limited to, single family homes, manufactured homes, multifamily apartment buildings and condominiums.

Non-residential property. The term “non-residential property” means any developed lot or parcel not exclusively residential as defined herein, including, but not limited to, transient rentals (such as hotels and motels), commercial, industrial, institutional, governmental property and parking lots.

Undeveloped property. The term “undeveloped property” means that which has not been altered from its natural state by the addition of any improvements such as a building, structure, impervious surface, change of grade or landscaping. For new construction, a property shall be considered developed pursuant to this ordinance (a) upon issuance of a Certificate of Occupancy, or upon completion of construction or final inspection if no such certificate is issued or (b) where construction is at least fifty percent (50%) complete and construction is halted for a period of three (3) months.

Sec. 20-230. Connection.

(a) Property owners shall be required to connect to the City's mini-sewer or storm sewer lateral within twelve (12) months of installation, pursuant to the provisions of §4-270. (Ord 16-97, §1, 3-5-97)

Secs. 20-231 – 20-235. Reserved.

DIVISION 2. RATES AND CHARGES

Sec. 20-236. Rate charges.

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

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

- (1) **Base Charge (BC)** – The base charge may be imposed on all property in the city. The base charge will be designed to reflect the fact that all properties benefit from the stormwater management activities of the City and that all property contribute in some way to the stormwater discharge that must be managed by the City. The BC will be designed to collect the administrative costs of the storm sewer utility and the portion of capital costs not covered by special assessments. The BC may be based on the size of a parcel of property.
- (2) **Equivalent Runoff Unit Charge (ERU)** – This charge may be imposed on all property that has any developed impervious area. The ERU will be designed on the basis of a typical residential unit of property. Other units of property will be

APPLETON CODE

charged multiples of the ERU based on the impervious area contributing to surface water runoff.

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

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

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

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

(f) Stormwater Utility charges shall not be payable in installments. If Stormwater Utility charges remain unpaid after a period of twenty (20) days from the date of utility bill, such bill shall become a delinquent special charge and shall become a lien as provided in W.S.A. §66.66(15). Said charges shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charges. Unpaid charges shall be assessed a one and one-half percent (1½%) per month late payment charge to bills not paid within twenty (20) days of issuance.

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

charge is extended upon the tax roll.

Sec. 20-237. Customer classification.

(a) For purposes of imposing the stormwater charges, all lots and parcels within the City are classified into the following five (5) customer classes:

- (1) Residential – Single Family and Mobile Home
- (2) Residential – Duplex
- (3) Residential – Multifamily and Condominiums
- (4) Non-residential
- (5) Undeveloped

(b) The Director shall prepare a list of lots and parcels within the City of Appleton and assign a classification of residential, non-residential or undeveloped to each lot or parcel.

(c) The average square footage of impervious area of ERU is established to be equivalent to 2,368 square feet.

(d) The charges imposed for single family and mobile residential properties shall be the rate for one (1) ERU.

(e) The charges imposed for duplex residential properties shall be the rate for one-half (½) of one (1) ERU for each individual dwelling unit existing on the property. (ERU rate multiplied by the number of dwelling units.)

(f) The charges imposed for multifamily and condominium residential properties shall be the rate of four-tenths of one ERU (0.4) multiplied by the number of individual dwelling units existing on the property.

(g) The charges imposed for non-residential properties as defined herein shall be the rate for one (1) ERU, multiplied by the numerical factor obtained by dividing the total impervious area of a non-residential property by the square footage of one (1) ERU. The factor shall be rounded down to the nearest one-tenth (0.1), i.e.

$$\text{ERU rate multiplied by } \frac{\text{impervious area}}{\text{ERU}}$$

(h) The charges imposed for undeveloped properties as defined herein shall be the rate for one (1) ERU multiplied by a factor established by resolution and then divided by the square footage for one (1) ERU established by resolution.

(i) The Director shall be responsible for determining the impervious area based on the best available information,

UTILITIES

including, but not limited to, data supplied by the City Assessor, aerial photography, the property owner, tenant or developer. The Director may require additional information as necessary to make the determination. The billing amount shall be updated by the Director based on the building permit process.

(j) The minimum charges for any non-residential parcel shall be equal to the rate for four-tenths (0.4) of one (1) ERU.

(k) All unoccupied developed lots and parcels shall be subject to the stormwater utility charges.

Sec. 20-238. New construction.

(a) The property owner shall be responsible for completing the stormwater utility service application form any time a building permit is issued, exclusive of those issued to existing single family residences, or a site plan review is conducted. The form shall be provided by the Division of Inspections with each application for a building permit (exclusive of building permits for single family residences) or application for site plan review. Failure to submit a completed stormwater utility service application form or providing false information on said form, shall result in the penalty as provided in §1-18 of the Municipal Code.
(Ord 129-95, §1, 12-9-95; Ord 132-96, §1, 12-18-96)

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

Sec. 20-239. Method of appeal.

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

- (1) A written appeal shall be filed with the City Clerk prior to the utility charge due date; or
- (2) Within thirty (30) days of payment, a written challenge to the stormwater charge must be filed with the City Clerk on behalf of the customer, specifying all bases for the challenge and the amount of the stormwater charge the customer asserts is appropriate. Failure to file a challenge within thirty (30) days of payment waives all rights to later challenge the charge.

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

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

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

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)

**ARTICLE VI. STORMWATER MANAGEMENT
STANDARDS AND PLANNING**

DIVISION I. IN GENERAL

Sec. 20-300. Authority.

(a) This ordinance is adopted by the Common Council of the City of Appleton under the authority granted by §62.234, Wis. Stat. This ordinance supersedes all conflicting and contradictory stormwater management regulations previously enacted under §62.23, Wis. Stat. that relates to stormwater management regulations. Except as specifically provided for in §62.234, Wis. Stat., §62.23, Wis. Stat. 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 same governing body.

(c) The Common Council of the City of Appleton hereby designates the Director of Public Works to administer and enforce the provisions of this ordinance.

(d) The requirements of this ordinance do not pre-empt stormwater management requirements that may be imposed by any of the following:

- (1) WDNR administrative rules, permits or approvals including those authorized under §281.16 and §283.33, Wis. Stat.
- (2) Targeted non-agricultural performance standards promulgated in rules by the WDNR under NR 151, Wisconsin Administrative Code. (Ord 188-03; §1, 10-21-03)

Sec. 20-301. Findings of fact.

The Common Council of the City of Appleton finds that uncontrolled post-construction stormwater runoff from land development activity has a significant impact upon water resources and the health, safety, and general welfare of the City of Appleton. Specifically, uncontrolled stormwater runoff can:

- (1) Degrade physical stream habitat by increasing streambank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant loads.
- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways and other drainage facilities.
- (6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.
- (8) Diminish the public enjoyment of natural resources. (Ord 188-03, §1, 10-21-03)

Sec. 20-302. Purpose and intent.

(a) *Purpose.* The purpose of this ordinance is to set forth stormwater management requirements and criteria that will prevent and control water pollution, diminish the threats to public health, safety, welfare and aquatic life because of runoff of stormwater from land development or redevelopment.

Specific purposes are to:

- (1) Further the maintenance of safe and healthful conditions.
- (2) Prevent and control the adverse effects of

UTILITIES

stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; 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.

(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 discharges from land development and redevelopment activities.
- (2) Controlling the quantity, peak flow rates, and quality of stormwater discharges 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 stormwater 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, are approved by the City of Appleton, and constructed, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

(Ord 188-03, §1, 10-21-03)

Sec. 20-303. Title.

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

(Ord 188-03, §1, 10-21-03)

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, and at a minimum has an effective cover of seventy percent (70%) or greater as determined by the line-transect method, or another WDNR approved method. 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 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 calendar year of precipitation, excluding snow, that 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 sediment or pollutants carried in runoff to waters of the state.

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 developing activity that is being conducted without the required permit or not in conformance with an existing permit.

APPLETON CODE

City means the City of Appleton.

Common plan of development or sale means all lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where multiple separate and distinct land developing activity may take place at different times and on different schedules.

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 that is directly connected to a separate storm sewer or water of the state via an impervious 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, 5.3 inches; 10-year, 3.8 inches; 5-year, 3.3 inches; 2-year, 2.8 inches, and 1-year, 2.2 inches.

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

Discharge volume means the quantity of runoff discharged from the land surface as the result of a rainfall event.

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, this excludes areas required for site access, berms, pretreatment, or other area required for the installation, operation, or maintenance of the infiltration device.

Erosion means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

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

Existing land use condition means the condition of the proposed development site and the adjacent properties that are present at the time of the stormwater permit application. This term applies only for the purpose of properly sizing the stormwater conveyance system in accordance to the requirements of this ordinance in Section 20-312(a)(2).

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.

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 City of Appleton.

Illicit discharge means any release to a municipal separate storm sewer that is not composed entirely of runoff, except discharges authorized by a WPDES permit or any other discharge not requiring a WPDES permit such as water line flushing, landscape irrigation, individual residential car washing, fire fighting and similar discharges.

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.

In-fill means undeveloped land located within existing urban areas, surrounded by already existing development, or existing development and natural or man-made features as shown on the in-fill map. The City shall establish a map identifying parcels of land in the City that constitute in-fill. The City shall update the in-fill map annually. As land is developed, the land shall no longer be included as in-fill, even though the in-fill map has not yet been updated. Updates of the map by the City shall not require committee or Council approval.

Infiltration means the process by which precipitation or surface runoff enters into or travels through the soil.

UTILITIES

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 development (and land redevelopment) activity means any activity that changes the volume or peak flow discharge rate of rainfall runoff or changes in the amount of soil erosion, sediment and pollutant loadings from the land surface. This applies to any change of land use including changes in vegetative cover, except this term does not include agricultural activities.

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 changes in runoff and lead to an increase in 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, but does not include agricultural facilities and practices, silviculture activities or routine maintenance for project sites that involve under five (5) acres of land disturbance that is performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

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 title to or having an interest in land.

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.

MEP or maximum extent practicable means a level of implementing best management practices to achieve a performance standard specified in this ordinance that takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features.

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-residential land development means all development excluding residential development and agricultural use.

Non-stormwater discharge means a discharge to the storm sewer system created by some process other than the runoff from precipitation.

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).

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 NR 115.03(6), Wisconsin Administrative Code.

Outstanding resource waters means waters listed in NR 102.10, Wisconsin Administrative Code.

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", volume 04.02, "Test Method C117-95 Standard Test Method for Materials Finer than 75- μ m (No. 200) Sieve in Material Aggregates by Washing".

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

APPLETON CODE

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 has the meaning in §283.01(13), Wis. Stat.

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

Population has the meaning in §281.66(1)(c), 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 rainfall runoff and infiltration.

Pre-settlement land use condition means land that has runoff characteristics equivalent to Runoff Curve Numbers (RCNs) of: 30, 58, 71 and 78 for Hydrologic Soil Groups A, B, C and D, respectively (as described in the USDA Soil Surveys for Outagamie, Winnebago and Calumet Counties, Wisconsin). This term is used for the purpose of matching of presettlement and post-development stormwater peak flows as required by this ordinance in Section 20-312(a)(1).

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

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

Redevelopment means areas where new 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 entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMPs.

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 soil, rock fragments and other solids carried in runoff.

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, that meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff.
- (2) Is not draining to a stormwater treatment device or system.
- (3) Discharges directly or indirectly to waters of the state.

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.

SCS means the Soil Conservation Service now known as Natural Resources Conservation Service of the United States Department of Agriculture.

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

UTILITIES

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 what actions will be taken to reduce stormwater quantity and pollutant loads from the post-development land use condition after final stabilization following completion of construction to levels meeting the requirements of this ordinance.

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 will apply in a specific area that will require 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. The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of stormwater practices needed to meet the water quality standards of this ordinance:

- (1) Technical standards identified, developed or disseminated by the WDNR under subchapter V of NR 151, Wisconsin Administrative Code.
- (2) 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.

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.

TR-55 means the United States Department of Agriculture, Soil Conservation Service, "Urban Hydrology for Small Watersheds," Technical Release 55, June 1992.

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 under §85.095(1)(b), Wis. Stat. A 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

of Commerce pursuant to §101.1205, Wis. Stat.

Type II distribution means a particular dimensionless rainfall temporal pattern called a Type II curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973". The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

Waters of the state has the meaning in §283.01(18), Wis. Stat.

WDNR means the Wisconsin Department of Natural Resources.

WPDES permit means a Wisconsin pollutant discharge elimination system permit issued under 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)

Secs. 20-305 – 20-310. Reserved.

undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter 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 ordinances.* This ordinance supercedes any county stormwater management ordinance for lands annexed to the City after the effective date of the county's ordinance, except when the county's ordinance is more restrictive than this ordinance; then the more restrictive provisions set forth in the county 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.

(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 (but not to those items required by the State of Wisconsin) 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. (Ord 188-03, §1, 10-21-03)

DIVISION II. STORMWATER MANAGEMENT

Sec. 20-311. Applicability and jurisdiction.

(a) *Applicability.* This ordinance applies to all post-construction land development, redevelopment and infilling 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 complete development of the post-construction site, provided the cumulative area of all parking lots, roads and rooftops is less than one (1) acre.
- (2) Nonpoint discharges from agricultural facilities and practices.
- (3) Nonpoint discharges from silviculture activities.
- (4) Routine maintenance for project sites under five (5) acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (5) Underground utility construction such as water, sewer and fiberoptic 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 post-construction sites 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

Sec. 20-312. Stormwater management standards.

Unless otherwise provided for in this ordinance, all post-construction land development, redevelopment and infilling 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

UTILITIES

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 Section 20-312(i) of this ordinance.

(a) *Peak stormwater discharge rate.* Infiltration of stormwater runoff from driveways, sidewalks, rooftops, parking lots and landscaped areas shall be incorporated to the maximum extent practical to provide volume control in addition to control of peak flows.

- (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 storm occurring over the site with the land in its pre-settlement condition as defined in Section 20-304 of this ordinance for storms of twenty-four (24) hour duration and recurrence intervals of two (2), five (5), ten (10) and one hundred (100) years. For the low frequency runoff events, the 10- and 100-year recurrence interval events, appropriate RCNs are described in TR-55. For higher frequency runoff events, less than or equal to the 5-year recurrence interval event, separate drainage areas and RCNs should be used to calculate runoff and then combined. The composite RCNs as defined in TR-55 should not be used.
- (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, 1/2-hour storm (or longer, if the time of concentration exceeds 30 minutes) shall be completely contained within the storm sewers with no surcharging.
 - c. For storms greater than the 5-year, 1/2-hour 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 runoff onto the site must be managed to not restrict the flow onto the site or to create any additional stormwater ponding on adjoining properties unless there is written agreement with the affected property owners.
- (3) Determination of peak flow rates and volume of runoff for purposes of meeting the requirements of Section 20-312(a)(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 based on the SCS Type II storms as described in TR-55.
 - (5) Existing wetlands shall not be incorporated in the proposed stormwater management practice for peak flow control. Peak flow will 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 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.

APPLETON CODE

(b) *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. BMPs 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, 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, 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 less than five (5) acres of disturbed land, by design, reduce to the maximum extent practicable, the total suspended solids load by forty percent (40%), based on the average annual rainfall, as compared to no runoff management controls.
- e. For in-fill development five (5) acres or greater of disturbed land, 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.

(2) Effectiveness of the stormwater management measures shall be evaluated using the Source Loading and Management Model (SLAMM). Other models may be used with prior written approval of the City.

(3) Discharge of urban stormwater pollutants to natural wetlands without pre-treatment shall be avoided to the maximum extent practicable. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method such as the WDNR's Rapid Wetland Functional Value Assessment, or other methods acceptable to the City of Appleton and the WDNR. Changes to wetland functional values because of stormwater pollutant loads shall be avoided.

(4) Fertilizer Application Plan

- a. This section applies when a property or a series of adjacent properties under the same ownership or responsible party, has over five (5) acres of pervious surface where fertilizers are applied.
- b. The responsible party shall prepare a site-specific nutrient application schedule based upon appropriate soil tests. The application schedule shall be designed to maintain the optimal health of the vegetation and minimize runoff of excess nutrients.
- c. The responsible party shall submit this plan annually to the City by December 31st. This annual submittal shall also include the documentation of the current year's fertilization application. This annual plan shall be certified by an authorized representative of the property.

(c) *Stormwater discharge volume (infiltration).* Unless otherwise provided for in this ordinance, all post-construction land development and redevelopment sites subject to this ordinance shall establish on-site management practices with the design capability to infiltrate runoff, to the maximum extent practicable.

(1) For residential developments one of the following shall be met:

- a. Infiltrate sufficient runoff volume so that the post-construction infiltration volume shall be at least ninety percent (90%) of the pre-settlement 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 project site is required as an effective infiltration area.

UTILITIES

- b. Infiltrate twenty-five percent (25%) of the post-construction runoff from the 2-year, 24-hour design storm with a Type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent (1%) of the project site is required as an effective infiltration area.
- (2) For non-residential development, one of the following shall be met:
- a. Infiltrate sufficient runoff volume so that the post-construction infiltration volume shall be at least sixty percent (60%) of the pre-settlement 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 project site is required as an effective infiltration area.
- b. Infiltrate ten percent (10%) of the post-construction runoff from the 2-year, 24-hour design storm with a Type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent (2%) of the project site is required as an effective infiltration area.
- (3) A model that calculates runoff volume, such as SLAMM, P8, or an equivalent methodology shall be used. Other models may be used with prior written approval of the City.
- (4) 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 Section 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.
- (5) 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).
- (6) Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this section:
- a. Areas associated with tier 1 industrial facilities identified in NR 216.21(2)(a), Wisconsin Administrative Code, including storage, loading, rooftop and parking.
- b. Storage and loading areas of tier 2 industrial facilities identified in NR 216.21(2)(b), Wisconsin Administrative Code. Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.
- c. Fueling and vehicle maintenance areas.
- d. Areas with less than three (3) feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock. This exclusion does not prohibit the infiltration of roof runoff.
- e. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five (5) feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
- f. Areas within four hundred (400) feet of a community water system well as specified in NR 811.16(4), Wisconsin Administrative Code, or within one hundred (100) feet of a private well as specified in NR 812.08(4), Wisconsin Administrative Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
- g. Areas where contaminants of concern, as

APPLETON CODE

- defined in NR 720.03(2), Wisconsin Administrative Code, are present in the soil through which infiltration will occur.
- h. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a three- (3-) foot soil layer with twenty percent (20%) fines or greater; or at least a five- (5-) foot soil layer with ten percent (10%) fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This exclusion does not prohibit the infiltration of roof runoff.
- (7) Exemptions. The following are not required to meet the requirements of this section of this ordinance:
- a. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site by the double ring infiltrometer method at the depth of potential infiltration or another method acceptable to the City of Appleton.
 - b. Parking areas and access roads less than five thousand (5,000) square feet for commercial and industrial development.
 - c. Redevelopment post-construction sites.
 - d. In-fill development areas less than five (5) acres.
 - e. Infiltration areas during periods when the soil on the site is frozen.
 - f. Roads in commercial, industrial and institutional land uses and arterial residential roads.
- (8) 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 NR 140, Wisconsin Administrative Code. However, if site-specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP shall not be installed or shall be modified to prevent exceedance of the preventive action limit.
- (d) *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 and for wetlands in areas of special natural resource interest as specified in NR 103.04, Wisconsin Administrative Codes, 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 and wetlands, fifty (50) feet. Wetland boundary delineations shall be made in accordance with NR 103.08(1m), Wisconsin Administrative Code. This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
 - d. For concentrated flow channels with drainage areas greater than one hundred thirty (130) acres, ten (10) feet.
 - e. Within a planned development or redevelopment site, the watercourses may be moved or graded. The protective area dimensions move with the watercourse, and the protective area shall be contained within the property being developed. The watercourse shall be designed to be non-erosive and to have adequate capacity within the protective area using a 100-year, 24-hour storm. If watercourses are moved and leave the property at a different

UTILITIES

- location, the watercourse downstream shall be protected from adverse impacts.
- (2) The following requirements shall be met:
- a. Impervious surfaces shall be kept out of the protective area 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, 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. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover can be measured using the line transect method described in the University of Wisconsin Extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".
- (3) This section applies to post-construction sites located within a protective area.
- (4) Best 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.
- (5) Other regulations, such as Ch. 30, Wis. Stat., and NR 103, 115, 116 and 117, Wisconsin Administrative Code, and their associated review and approval processes may apply in the protective area.
- (6) Protective areas do not apply to:
- a. Redevelopment post-construction sites.
 - b. In-fill development areas less than five (5) acres.
 - c. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - d. Structures constructed in accordance with §59.692(1v), Wis. Stat.
 - e. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- (e) *Fueling and vehicle maintenance areas.* Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs 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 BMPs 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 that require site plan review. BMPs 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.
- (2) A stormwater management plan per Section 20-313 of this ordinance, a maintenance agreement per Section 20-314 of this ordinance and a stormwater permit per Section 20-321 of this ordinance are required.
- (f) *General considerations for on-site stormwater management measures.* The following considerations shall be observed in managing stormwater runoff.
- (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.

APPLETON CODE

(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) Stormwater management measures used in developing the stormwater management plan should be considered according to the following order of preference. Limitations to this order of preference that may be recognized include natural site characteristics, type of development, legal rights in redirecting stormwater flows and other restrictions specified in Section 20-312(b) of this ordinance and the current version of The Wisconsin Stormwater Manual, Part Two: Technical Design Guidelines for Storm Water BMP's.

- a. On-site infiltration for rooftop, sidewalk, parking lot and driveway runoff.
- b. On-site and off-site infiltration style conveyance measures.
- c. Off-site wet detention measures.
- d. On-site wet detention measures.
- e. Extended detention measures.
- f. Off-site infiltration measures.

(5) Low impact development techniques should be included to the extent possible. These techniques include: 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.

(g) *Location and regional treatment option.*

- (1) The BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system.
- (2) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMPs 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, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
- b. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as NR 103, Wisconsin Administrative Code and §30, Wis. Stat.

(4) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this ordinance.

(h) *Swale treatment for transportation facilities.*

(1) Applicability. Except as provided in Section 20-312(h)(2) of this ordinance, transportation facilities that use swales for runoff conveyance **and** pollutant removal 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. Carry runoff through a swale for two hundred (200) feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a 2-year, 24-hour design storm or a 2-year storm with a duration equal to the time of concentration as appropriate. If a swale of two hundred (200) feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable. Check dams may be included in the swale design to slow runoff flows and improve pollutant removal. Transportation facilities with continuous features such as curb and gutter, sidewalks or parking lanes do not comply with the

UTILITIES

design requirements of this section.

- (2) **Exemptions.** 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:
- a. An outstanding resource water.
 - b. An exceptional resource water.
 - c. 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.
 - d. Waters where targeted performance standards are developed under NR 151.004, Wisconsin Administrative Code, to meet water quality standards.

(i) **Exceptions.** The minimum requirements for on-site stormwater management practices established in Sections 20-312(a), (b) and (c) of this ordinance may be waived in part by the City of Appleton upon written request of the applicant, provided that at least one of the following conditions applies:

- (1) Provisions are made to manage stormwater by an off-site facility. This requires that the off-site facility is in place, is designed and adequately sized to the requirements of this ordinance and has a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice. Permittee must demonstrate that the proposed post-construction land development or redevelopment activity has received permission to use the off-site facility. Permittee must also demonstrate the flow path to the off-site facility will not result in negative impacts to structural improvements on the property. The Permittee must provide for easements of all overland flow paths up to and including the overland flow path of the 100-year storm.
- (2) Innovative stormwater management systems that do not meet Section 20-312(a) or (b) of this ordinance must be reviewed and **accepted** by the City before installation.

(Ord 188-03, §1, 10-21-03)

Sec. 20-313. Stormwater management plans.

(a) **Plan requirements.** The stormwater management plan required under Section 20-321 of this ordinance shall contain any such information the City of Appleton may need to evaluate the environmental 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.

(b) **Certification.** All site investigations, plans, designs, computations and drawings for stormwater management measures and plans shall be certified 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.

(c) **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-settlement 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

APPLETON CODE

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 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).

(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).
 - 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.
- (5) A description and installation schedule for the stormwater management practices needed to meet the performance standards in Section 20-312 of this ordinance.
 - (6) A maintenance plan developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule.
 - (7) 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.

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

(e) *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 before those changes in practice occur.
(Ord 188-03, §1, 10-21-03)

Sec. 20-314. Maintenance agreement.

(a) *Maintenance agreement required.* The maintenance agreement required for stormwater

UTILITIES

management practices under Section 20-321(b) of this ordinance shall be an agreement between the City of Appleton and the responsible party. The responsible party shall record the agreement 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.

(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 Section 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.
- (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.
- (4) Requirement that the responsible party(ies), organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in Section 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 responsible party records the modified maintenance agreement 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.

(d) *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 Section 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. The responsible party shall amend the agreement previously recorded with the appropriate (Outagamie, Winnebago, or Calumet) County Register of Deeds.
(Ord 188-03, §1, 10-21-03)

Secs. 20-315 – 20-320. Reserved.

APPLETON CODE

1 & 2 Family Residential on 1 acre or greater lots	Permit is administered by the WDNR		X	--	--
Multi-Family Residential	X	X	X	X	X
Subdivision Development	X	X	X	X	X

- (2) The stormwater management plan shall be prepared to meet the requirements of Section 20-313 of this ordinance and the maintenance agreement shall be prepared to meet the requirements of Section 20-314 of this ordinance.
- (3) For 1- and 2-Family Residential on one (1) acre or greater lots, with greater than one (1) acre of disturbed area, post-construction stormwater permits are administered by the WDNR. A simple combined grading and drainage plan attached to the building permit that shows grading, drainage and measures to manage stormwater will meet the requirements of the ordinance.
- (4) Fees for the above-noted 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.

DIVISION III. PERMITTING AND FEES

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

(a) *Permit required.* No one may undertake a land development or redevelopment activity with one (1) acre or more of land disturbing construction activities, except 1- and 2-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, a maintenance agreement and a non-refundable permit administration fee as set forth in Table 1.

TABLE 1

Land Development Activity	Permit	Storm-water Management Plan	Grading & Drainage Plan	Maintenance Agreement	Fee
Agricultural use	--	--	--	--	--
Non-Residential	X	X	X	X	X

(c) *Review and approval of permit application.* The City of Appleton shall review any permit application that is submitted with a stormwater management plan, grading plan, maintenance agreement and the required fee. The following approval procedure shall be used:

- (1) Within thirty (30) business days of the receipt of a complete permit application, including all documents as required by Section 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 Sections 20-312, 20-313 and 20-314 of this ordinance.
- (2) If the stormwater permit application, plan and maintenance agreement are approved, and any fees, or if an agreed upon payment of fees in lieu of stormwater management practices are paid, the City of Appleton shall issue the permit.
- (3) If the stormwater permit application, plan or

UTILITIES

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 Section 20-327 of this ordinance.

- (4) If additional information is submitted, the City of Appleton shall have thirty (30) business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- (5) Failure by the City of Appleton to inform the permit applicant of a decision within thirty (30) business days of a required submittal shall be deemed to mean approval of the submittal.

(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 a professional engineer registered in the State of Wisconsin that the stormwater practice(s) were installed 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 Section 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 identified by the City of Appleton. 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

APPLETON CODE

conditions of this permit. The responsible party is further required to submit 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 requirements. The certificate must be signed by the responsible party, the contractor, the design engineer, owner, and authorized City representative.

- (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 §66.60(16), 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 stormwater 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 for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
- (10) Where necessary, the responsible party must obtain from adjacent property owners any easements or other required property interests

concerning flowage of water. Issuance of this permit does not create or affect any such rights.

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

(f) *Permit duration.* Permits issued under this section shall be valid from the date of issuance through the date the City of Appleton notifies the permit holder that all stormwater management practices (including landscaping materials) have passed the final inspection required under Permit Condition (Section 20-313(e) of this ordinance).

The responsible party must start the permit activities within one (1) year of the date the permit is issued. If permit activities are not started, then a new permit application and fee are required.

(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 Section 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 Section 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 §66.076, Wis. Stat. and any other applicable law.
(Ord 188-03, §1, 10-21-03)

UTILITIES

Secs. 20-322 – 20-325. Reserved.

development or redevelopment 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 or owner shall correct work, which does not comply with the stormwater management plan or other provisions of this permit within thirty (30) days. 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 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 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 Section 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 Section 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 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

DIVISION IV. ENFORCEMENT AND APPEALS

Sec. 20-326. Enforcement and penalties.

(a) Any land development or redevelopment 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 said provisions.

(b) The City of Appleton shall notify the responsible party or owner in writing of any non-complying land

APPLETON CODE

management plan submitted and approved pursuant to Section 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 Section 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, §, 10-21-03)

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.

(Ord 188-03, §, 10-21-03)

Secs. 20-328 – 20-330. Reserved.

DIVISION V. 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, §, 10-21-03)

UTILITIES

DIVISION VI. EFFECTIVE DATE.

Sec. 20-336. Effective date.

This ordinance is in full force and effect on January 1,
2004.
(Ord 188-03, §1, 10-21-03)

(The next page is 1381.)