



# City of Appleton

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

## Meeting Agenda - Final Utilities Committee

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Tuesday, October 13, 2020

5:00 PM

Council Chambers, 6th Floor

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1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting  
[20-1285](#) Approval of the September 22, 2020 Utilities Committee Meeting minutes.

**Attachments:** [September 22, 2020 Utilities Committee Meeting minutes.pdf](#)

#### 4. Public Hearings/Apearances

- [20-1286](#) Christine DeMaster and Erik Granum, Trilogy Consulting, LLC to present the Wastewater Rate Study.

**Attachments:** [Wastewater Rate Study Executive Summary - 20201008.pdf](#)

#### 5. Action Items

- [20-1287](#) Request to approve rate increase effective January 1, 2021 as presented in Wastewater Rate Study.

**Attachments:** [WW Rate Increase memo Oct 2020 FINAL.pdf](#)

- [20-1288](#) Approve second amendment to the 2020A Stormwater Management Plan Review contract with Brown and Caldwell by an increase of \$30,000 for a total contract amount not to exceed \$65,000.

**Attachments:** [2020A SWM Plan Review BC Second Amendment Memo Util Cmte.pdf](#)

- [20-1289](#) Approve second amendment to the 2020B Stormwater Management Plan Review contract with raSmith by an increase of \$25,000 for a total contract amount not to exceed \$65,000.

**Attachments:** [2020B SWM Plan Review raSmith Second Amendment Memo Util Cmte.pdf](#)

#### 6. Information Items

[20-1290](#) Discuss Stormwater Permit requirements for Post-Construction Stormwater Management.

**Attachments:** [2020 Post Construction Program Presentation October 2020.pdf](#)  
[Post Construction 2020 Program to UC combined.pdf](#)

[20-1291](#) 2021 Department of Utilities Budget Review

[20-1292](#) 2021 Department of Public Works Budget Review

## 7. Adjournment

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

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

*For questions on the agenda, contact Chris Shaw at 920-832-5945 or Paula Vandehey at 920-832-6474.*



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
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## Meeting Minutes - Final Utilities Committee

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Tuesday, September 22, 2020

5:00 PM

Council Chambers, 6th Floor

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1. Call meeting to order

*Chairperson Meltzer called the Utilities Committee meeting to order at 5:00 p.m.*

2. Roll call of membership

**Present:** 5 - Meltzer, Fenton, Otis, Prohaska and Smith

3. Approval of minutes from previous meeting

[20-1152](#)

Approval of the August 25, 2020 Utilities Committee Meeting minutes.

**Attachments:** [August 25, 2020 Utilities Committee Meeting minutes.pdf](#)

**Fenton moved, seconded by Prohaska, that the Minutes be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 5 - Meltzer, Fenton, Otis, Prohaska and Smith

4. **Public Hearings/Appearances**

5. **Action Items**

[20-1245](#)

Approved updated Water Leak Policy

**Attachments:** [Water Leak Policy Version 9-17-20.pdf](#)

**Fenton moved, seconded by Otis, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Meltzer, Fenton, Otis and Prohaska

**Nay:** 1 - Smith

6. **Information Items**

[20-1153](#)

Resume discussion of WPDES Stormwater Permit requirements.

**Attachments:**    [2020 resume MS4 Permit UC.pdf](#)  
[2019 September 24 Permit Overview.pdf](#)  
[2019 WPDES-WI-S050075-03.pdf](#)

*This item was discussed.*

[20-1225](#)

Monthly Reports for August:  
- Water Distribution and Meter Team Monthly Report

**Attachments:**    [Water Main Breaks August 2020.pdf](#)

*The report was reviewed.*

7.    Adjournment

**Fenton moved, seconded by Smith, that the Utilities Committee be adjourned at 5:17 p.m.. Roll Call. Motion carried by the following vote:**

**Aye:** 5 - Meltzer, Fenton, Otis, Prohaska and Smith

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# **Wastewater Rate Study**

## **Executive Summary**

Prepared for the  
**City of Appleton**

by Trilogy Consulting, LLC

October 2020



## INTRODUCTION

The City of Appleton owns and operates a wastewater utility that includes a collection system, sewer interceptors, 14 lift stations, and a Wastewater Treatment Plant (WWTP). The utility provides wastewater service to over 28,000 customers within the City, including several high-strength industrial customers, a hauled waste customers from outside the sewer service area, and over 500 customers located in the Town of Grand Chute. The City is required to treat the following primary conventional pollutants at its wastewater treatment plant: organic pollutants or biological oxygen demand (BOD), total suspended solids (TSS), phosphorus (P), and ammonia nitrogen (NH<sub>3</sub>-N).

The City last completed a wastewater rate study in 2009. An overall increase of 5 percent was recommended and implemented on July 1, 2011. Since that time, there have been no adjustments to the general user rates.

This study consisted of: 1) determining overall recommended increases in user charge revenues to fund anticipated increases in operation and maintenance expenses, routine sewer main and equipment replacements and the WWTP upgrades; 2) a cost of service study to fairly allocate costs between different classes of customers; and 3) rate design to determine the user charge rates needed to recover costs. As part of the study, a six-year schedule of projected rate increases, and a ten-year forecast of Utility cash flows were developed.

The purpose of the Wastewater Rate Study was two-fold: 1) to recommend rates that would collect adequate revenues for the City of Appleton Wastewater Utility to fulfill its current and upcoming obligations; and 2) to allocate costs to all customer classes in proportion to their use of the wastewater system. In addition to the existing rates for BOD and suspended solids, this study included evaluating the costs associated with treating phosphorus and ammonia and establishing rates for these pollutants.

This study recommends that rates be increased in response to changes in expenses and customer sales that have occurred over the last 10 years, to fund the Utility's \$67.3 million capital improvement program over the next ten years, and to maintain an adequate level of reserve funds.

## KEY FINDINGS AND RECOMMENDATIONS

The evaluation of the Utility's financial condition over the last five years and projections for the next ten years resulted in the following findings:

- Appleton’s sewer user charge rates are currently very low compared to other area and peer communities.
- The Utility’s revenues increased slightly from year to year during the last five years (2015-2019). However, fluctuations in expenses and capital outlay have resulted in fluctuating cash flows. Cash flow was positive for every year except 2019, which saw a negative cash flow of just over \$450,000.
- Revenues for 2020 are projected to be about \$2.6 million, or 19 percent, less than 2019 revenues due to a reduction in waste from a hauled waste customer that represents about 15 percent of Utility revenues, and a reduction in operations for a large industrial customer. Due to this loss of revenues, cash flow for 2020 is projected to be negative.
- The Utility has expended approximately \$14.6 million on capital improvements during the last five years, or an average of \$2.9 million per year.
- The Utility has \$50.6 million of capital improvements planned for 2021-2026, or an average of \$8.4 million per year. The Utility plans to fund \$30.8 million of the 2021-2026 improvements through debt, \$4.9 million from existing reserves, and \$14.9 million through annual user charge revenues.
- The Utility needs to increase revenues by approximately \$5.0 million per year by 2026. Of this amount, \$3.0 million is to cover loss of revenues and increases in O&M expenses and \$2.0 million is to cover increased debt service and cash funded capital improvements, net of amounts to be drawn from existing reserves.

Two alternative scenarios for increasing revenues were evaluated and discussed with Utility staff – one that would increase revenues by 19.0 percent in 2021 and another 19 percent in 2022, and one that would increase revenues by 20 percent in 2021 and 4 percent per year for 2022-2026.

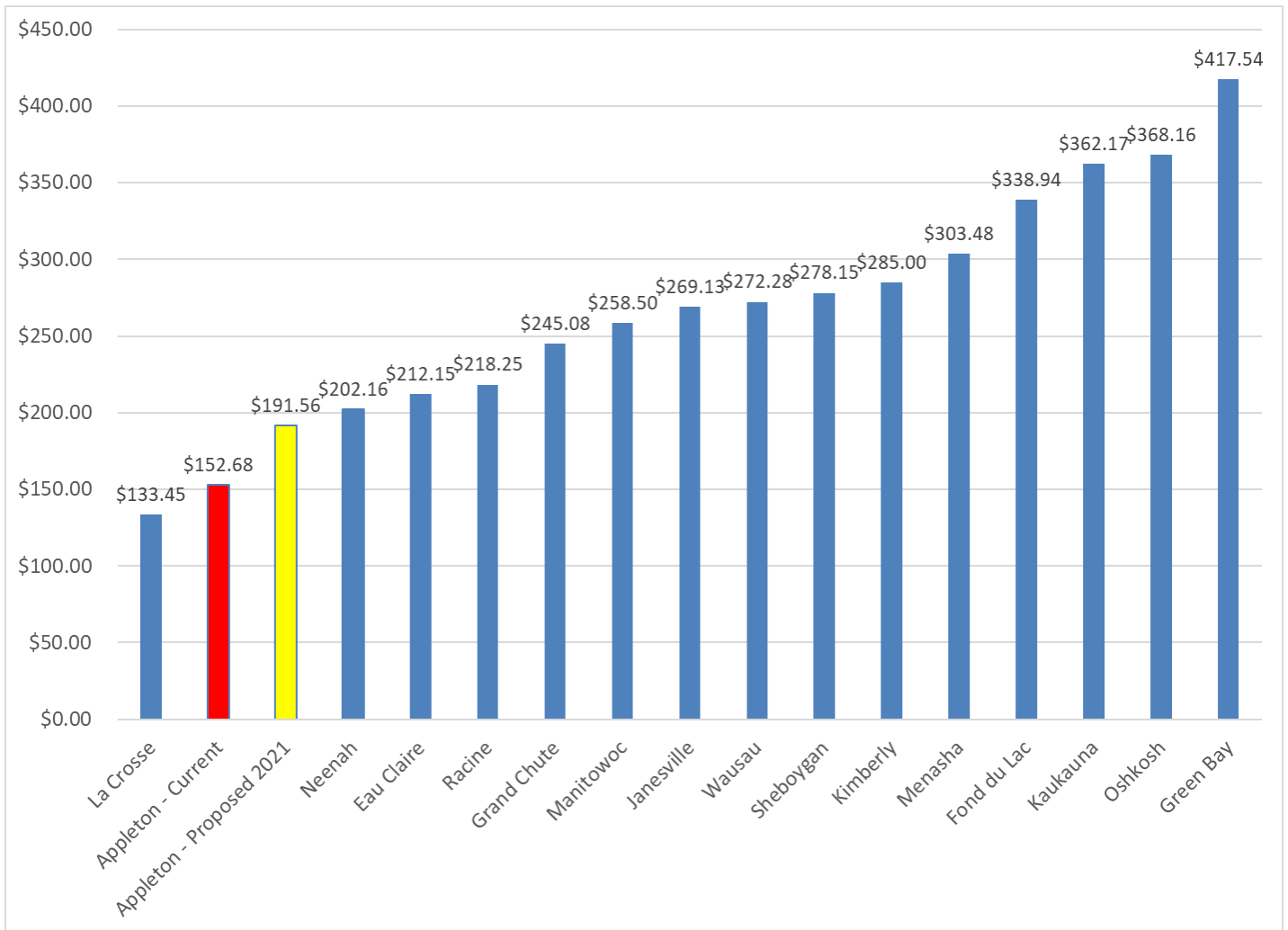
The recommended plan includes a 20 percent overall increase in 2021 and 4 percent per year increases in 2022-2026. This plan is projected to increase Utility revenues by about \$5.0 million by 2026. The schedule of rates and the comparison with area sewer rates are shown in the following tables. Even with the proposed increase in 2021, Appleton’s annual sewer charges for a typical residential customer will remain very low compared to other area and peer communities.

**Table 1 - Current and Proposed Rate Schedule**

Quarterly Minimum Charge	Connection Size	Current Rate	Proposed	Projected	Projected	Projected	Projected	Projected
			Rates - 2021	Rates - 2022	Rates - 2023	Rates - 2024	Rates - 2025	Rates - 2026
	5/8	\$13.60	\$15.40	\$16.00	\$16.60	\$17.30	\$18.00	\$18.70
	3/4	\$13.60	\$15.40	\$16.00	\$16.60	\$17.30	\$18.00	\$18.70
	1	\$25.00	\$27.70	\$28.80	\$30.00	\$31.20	\$32.40	\$33.70
	1 1/4	\$34.00	\$38.20	\$39.70	\$41.30	\$43.00	\$44.70	\$46.50
	1 1/2	\$44.00	\$49.00	\$51.00	\$53.00	\$55.10	\$57.30	\$59.60
	2	\$68.00	\$75.30	\$78.30	\$81.40	\$84.70	\$88.10	\$91.60
	2 1/2	\$0.00	\$106.60	\$110.90	\$115.30	\$119.90	\$124.70	\$129.70
	3	\$121.00	\$130.60	\$135.80	\$141.20	\$146.80	\$152.70	\$158.80
	4	\$199.00	\$207.70	\$216.00	\$224.60	\$233.60	\$242.90	\$252.60
	6	\$391.00	\$393.40	\$409.10	\$425.50	\$442.50	\$460.20	\$478.60
	8	\$622.00	\$622.00	\$646.90	\$672.80	\$699.70	\$727.70	\$756.80
	10	\$0.00	\$909.70	\$946.10	\$983.90	\$1,023.30	\$1,064.20	\$1,106.80
	12	\$0.00	\$1,204.00	\$1,252.20	\$1,302.30	\$1,354.40	\$1,408.60	\$1,464.90
	Units	Current Rate	Proposed Rates - 2021	Projected Rates - 2022	Projected Rates - 2023	Projected Rates - 2024	Projected Rates - 2025	Projected Rates - 2026
<b>Volume Charge</b>	\$/1,000 gallons	\$2.73	\$3.61	\$3.75	\$3.90	\$4.06	\$4.22	\$4.39
<b>Industrial Q/Q Rates</b>								
Volume	\$/1,000 gallons	\$1.73	\$2.34	\$2.43	\$2.53	\$2.63	\$2.74	\$2.85
BOD	\$/100 lbs	\$35.48	\$33.80	\$35.15	\$36.56	\$38.02	\$39.54	\$41.12
TSS	\$/100 lbs	\$11.26	\$11.40	\$11.86	\$12.33	\$12.82	\$13.33	\$13.86
Phosphorus	\$/100 lbs	NA	\$370.75	\$385.58	\$401.00	\$417.04	\$433.72	\$451.07
TKN	\$/100 lbs	NA	\$131.14	\$136.39	\$141.85	\$147.52	\$153.42	\$159.56
<b>Sanitary Waste Haulers</b>								
Volume	\$/ton	\$4.40	\$10.20	\$10.61	\$11.03	\$11.47	\$11.93	\$12.41
Per Load		\$9.45	\$11.30	\$11.75	\$12.22	\$12.71	\$13.22	\$13.75
Per Customer	per quarter	\$15.75	\$17.70	\$18.41	\$19.15	\$19.92	\$20.72	\$21.55



Figure 1 - Comparison of Annual Residential Wastewater Bills with Peer Communities





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

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Finance Department  
100 N. Appleton Street  
Appleton, WI 54912  
920-832-6442

**TO:** Chairperson Vered Meltzer and Members of the Utilities Committee

**FROM:** Kelli Rindt, Enterprise Fund Accounting Manager

**DATE:** October 7, 2020

**RE:** *Approve Wastewater increase presented in study prepared by Trilogy Consulting LLC.*

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**BACKGROUND:**

The current Wastewater service rates have been in effect since July 1, 2011. The current rates will not provide the revenue that is needed to cover operation and maintenance expense into the future. Cash flow will also be impacted to fund the needed capital improvement projects to maintain the collection system and the treatment facility.

The Utility Department contracted with Trilogy Consulting, LLC to complete a comprehensive rate study. The study results recommended an overall rate increase of 20% is needed to ensure the financial viability of the utility into the future. The actual rate increase will vary between 17% and 25% based on customer class.

The study also recommends future annual rate increases in 2022 through 2025 of approximately 4%. The need for these future rate increases will be reviewed annually and will be presented to the utility committee for approval.

The Wastewater portion of the City Service Invoice for residential customers (commonly called the water bill) represents about 26% of the total invoice. The average residential customer would see a quarterly increase on the City Service Invoice of approximately \$13 in 2021. As detailed in the rate study, even with the proposed rate increase, the Appleton Wastewater charges remain competitive with neighboring communities.

**RECOMMENDATION:**

Approve Wastewater rates as detailed in the proposed rate schedule as listed on page 2. Should you have any questions regarding this project please contact me at phone: 832-6316.

City of Appleton - Wastewater Rates (effective 1/1/2021)

**Quarterly Minimum**

<b>Charge</b>	<b>Connection Size</b>	<b>Current Rate</b>	<b>Proposed Rate</b>
	5/8	\$13.60	<b>\$15.40</b>
	3/4	\$13.60	<b>\$15.40</b>
	1	\$25.00	<b>\$27.70</b>
	1 1/4	\$34.00	<b>\$38.20</b>
	1 1/2	\$44.00	<b>\$49.00</b>
	2	\$68.00	<b>\$75.30</b>
	2 1/2	\$0.00	<b>\$106.60</b>
	3	\$121.00	<b>\$130.60</b>
	4	\$199.00	<b>\$207.70</b>
	6	\$391.00	<b>\$393.40</b>
	8	\$622.00	<b>\$622.00</b>
	10	\$0.00	<b>\$909.70</b>
	12	\$0.00	<b>\$1,204.00</b>

<b>Volume Charge</b>	\$/1,000 gallons	\$2.73	<b>\$3.61</b>
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	<b>Units</b>	<b>Current Rate</b>	<b>Proposed Rate</b>
<b>Industrial Q/Q Rates</b>			
Volume	\$/1,000 gallons	\$1.73	<b>\$2.34</b>
BOD	\$/100 lbs	\$35.48	<b>\$33.80</b>
TSS	\$/100 lbs	\$11.26	<b>\$11.40</b>
Phosphorus	\$/100 lbs	NA	<b>\$370.75</b>
TKN	\$/100 lbs	NA	<b>\$131.14</b>

**Sanitary Waste Haulers**

Volume	\$/ton	\$4.40	<b>\$10.20</b>
Per Load		\$9.45	<b>\$11.30</b>
Per Customer	per quarter	\$15.75	<b>\$17.70</b>

## Department of Public Works – Engineering Division

### MEMO

**TO:** Utilities Committee

**FROM:** Paula Vandehey, Director of Public Works  
Pete Neuberger, Staff Engineer  
Sue Olson, Staff Engineer

**DATE:** October 6, 2020

**RE:** Approve second amendment to the 2020A Stormwater Management Plan Review contract with Brown and Caldwell by an increase of \$30,000 for a total contact amount not to exceed \$65,000.

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The Department of Public Works is requesting a second amendment to the contract with Brown and Caldwell for 2020 Stormwater Management Plan Reviews by an increase of \$30,000 for a total contact amount not to exceed \$65,000. After this contract amendment, \$198,119 will remain in the 2020 stormwater consulting budget.

The number of stormwater and erosion control submittals has remained steady and several large projects remain under review. Some of those projects currently under review by Brown and Caldwell include Thedacare, Evergreen Heights, Fox Valley Medical Office Building and Trail View South. Erosion control for sites over one acre of disturbed area continues to be reviewed by consultants for compliance with DNR soil loss calculations.

Work under this contract is charged on an hourly basis and is therefore only used as needed. In order to keep projects moving forward, staff is requesting this amendment now, before the current contract is completely spent.

## Department of Public Works – Engineering Division

### MEMO

**TO:** Utilities Committee

**FROM:** Paula Vandehey, Director of Public Works  
Pete Neuberger, Staff Engineer  
Sue Olson, Staff Engineer

**DATE:** October 6, 2020

**RE:** Approve second amendment to the 2020B Stormwater Management Plan Review contract with raSmith by an increase of \$25,000 for a total contact amount not to exceed \$65,000.

---

The Department of Public Works is requesting a second amendment to the contract with raSmith for 2020 Stormwater Management Plan Reviews by an increase of \$25,000 for a total contact amount not to exceed \$60,000. After this contract amendment, \$173,119 will remain in the 2020 stormwater consulting budget.

The number of stormwater and erosion control submittals has remained steady and several subdivisions remain under review, including revisions to Emerald Valley Estates Phase 2 plat, and the 6<sup>th</sup> and 7<sup>th</sup> additions to Emerald Valley. Erosion control for sites over one acre of disturbed area continues to be reviewed by consultants for compliance with DNR soil loss calculations.

Work under this contract is charged on an hourly basis and is therefore only used as needed. In order to keep projects moving forward, staff is requesting this amendment now, before the current contract is completely spent.

The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance.

# **MS4 STORMWATER PERMIT 2.5 POST-CONSTRUCTION STORMWATER MANAGEMENT**

UTILITIES COMMITTEE

OCTOBER 13, 2020

# POST-CONSTRUCTION ORDINANCE

- FIRST ORDINANCE WENT INTO EFFECT JANUARY 1, 2004, AS REQUIRED BY FIRST WDPES PERMIT
- ARTICLE VI OF CHAPTER 20 OF THE MUNICIPAL CODE, UPDATED MARCH 2020 PER 2019 WPDDES PERMIT, EFFECTIVE APRIL 27, 2020
- ADMINISTERED AND ENFORCED BY THE ENGINEERING DIVISION OF THE DEPARTMENT OF PUBLIC WORKS WITH ASSISTANCE FROM THE INSPECTIONS DIVISION

# POST-CONSTRUCTION PROGRAM

- REQUIRED TO HAVE WRITTEN PROCEDURES FOR PROGRAM ADMINISTRATION, INCLUDING:
  - PROCESS FOR OBTAINING LOCAL APPROVAL
  - RESPONDING TO COMPLAINTS
- REQUIRED TO HAVE WRITTEN PROCEDURES FOR POST-CONSTRUCTION PLAN REVIEW FOR ALL CONSTRUCTION SITES WITH GREATER THAN ONE ACRE OF LAND DISTURBANCE, INCLUDING CONSIDERATION OF POTENTIAL WATER QUALITY IMPACTS.
  - IN 2020 CONTRACTED WITH BROWN AND CALDWELL AND RASMITH FOR PLAN REVIEW



# POST-CONSTRUCTION PROGRAM CONTINUED

- REQUIRED TO HAVE PROCEDURES TO TRACK AND ENFORCE LONG-TERM MAINTENANCE OF STORMWATER MANAGEMENT FACILITIES IMPLEMENTED TO MEET PERFORMANCE STANDARDS:
  - A MECHANISM FOR TRACKING REGULATED SITES
  - AT A MINIMUM, LONG-TERM MAINTENANCE INSPECTIONS SHALL OCCUR ONCE PER PERMIT TERM (5 YEARS)
  - INSPECTION DOCUMENTATION
  - FOLLOW UP ENFORCEMENT WITH TIMEFRAMES FOR CORRECTIVE MAINTENANCE

# LONG-TERM MAINTENANCE PROGRAM

- CITY OWNED AND MAINTAINED PRACTICES COVERED UNDER 2.6 POLLUTION PREVENTION PROGRAM
- PER MARCH 2020 ORDINANCE UPDATE, PRIVATE PRACTICES ARE REQUIRED TO HIRE PROFESSIONAL ENGINEER TO INSPECT AND CERTIFY PRACTICES - ANTICIPATED SCHEDULE:
  - COMPLETE TRACKING DATABASE BY SUMMER 2021
  - SEND LETTERS OF NOTIFICATION IN FALL 2021
  - REQUIRE DOCUMENTS SUBMITTED TO CITY BY FALL OF 2022
  - ALLOWS 2023 FOR ENFORCEMENT

The image features a light gray gradient background with several realistic water droplets of various sizes scattered in the corners. The droplets have highlights and shadows, giving them a three-dimensional appearance. The word "QUESTIONS?" is centered in the upper half of the image.

**QUESTIONS?**

City of Appleton  
Post-Construction Stormwater Management Program  
Section 2.5 WPDES Permit No. WI-S050075-3  
Permit Start Date May 1, 2019  
October 2020

Since 2003, the City of Appleton has progressively addressed post-construction stormwater management. The City has a post construction stormwater management ordinance and an established program. This document describes that program as required in the Phase II Stormwater Permit from the Wisconsin Department of Natural Resources (WDNR). All costs associated with this program are funded through the City of Appleton Stormwater Utility.

This document will be kept in the Engineering Division of the Department of Public Works located on the fifth floor of City Center, 100 N. Appleton Street, Appleton, Wisconsin.

Bold text is language from the permit.

**The permittee shall continue to implement and enforce its program to require control of the quality of discharges from areas of new development, infill and redevelopment, after construction is completed. The permittee shall implement the following measurable goals:**

**2.5.1 Post-construction stormwater ordinance. An ordinance or other regulatory mechanism to regulate post-construction stormwater discharges from new development and redevelopment. At a minimum, the ordinance or other regulatory mechanism shall establish or include:**

**2.5.1.a Applicability and jurisdiction, pursuant to the authority provided to the permittee under Wisconsin Statutes, the ordinance shall apply to construction sites with one acre or more acres of land disturbance, and sites of less than one acre if they are part of a larger common plan of development or sale.**

**2.5.1.b Requirements for design and implementation of post-construction storm water management control practices consistent with the criteria of those approved by the WDNR.**

**2.5.1.c For new development and infill, post-construction performance standards equivalent to those in ss. NR 151.122 through 151.126 and 151.242 through 151.246, Wis. Adm. Code, that meet the measurable goals for pollutant removal and post-construction stormwater treatment. Post-construction performance standards for new development and infill may be more restrictive than those required in this section if necessary to comply with federally approved TMDL requirements.**

**2.5.1.d For redevelopment, post-construction performance standards equivalent to or more restrictive than those in ss. NR 151.122 through 151.126 and 151.242 through 151.246, Wis. Adm. Code, that meet the measureable goals for pollutant removal and post-construction stormwater treatment.**

**2.5.1.e Stormwater plan requirements for landowners of construction sites equivalent to those contained in s. NR 216.47, Wis. Adm. Code.**

**2.5.1.f Long-term maintenance requirements for landowners and other persons responsible for long-term maintenance of post-construction stormwater control measures, including requirements for routine inspection and maintenance of privately owned post-construction stormwater control measures that discharge to the MS4 to maintain their pollutant removal operating efficiency.**

**2.5.1.g Inspection and enforcement authority.**

The first City of Appleton post-construction stormwater management ordinance became effective January 1, 2004 and was updated in May 2016. The 2020 ordinance update meets the permit requirements to be equivalent to the specified sections of NR 151 and NR 216 and was effective April 27, 2020. The 2020 ordinance is available at the Department of Public Works and in the on-line Municipal Code as Article VI of Chapter 20, as periodically updated.

The water quality requirements of the ordinance are more stringent than the WDNR model ordinance, requiring 80% Total Suspended Solids removal for redevelopment sites with over 5 acres of disturbed area. It also requires TSS reduction from all areas of a redevelopment site, not just parking areas and roads, and includes provisions for flood control. The model ordinance is only for water quality and provides a statewide standard. The City is subject to the Lower Fox River TMDL and Upper Fox and Wolf Rivers TMDL. These EPA approved documents place more stringent requirements for water quality on the City. The flood control provisions in the ordinance are helping to reduce the amount of street and private property flooding throughout the City.

**2.5.2 Administrative procedures. Written procedures for the administration of the post-construction stormwater management program including the process for obtaining local approval and responding to complaints.**

This document contains the written procedures for administration of this program.

The post-construction stormwater management program is administered by the Engineering Division of the Department of Public Works, with assistance from the Inspections Division of the Department of Public Works. The Utilities Committee, comprised of 5 alderpersons, and the Common Council govern the stormwater program.

Since 2004, the Department of Public Works has received very few complaints regarding the post-construction stormwater management program. Complaints are logged into the Customer Service Record for documentation and then directed to a staff engineer assigned to the program. Unresolved issues are then discussed with the Director of Public Works. If issues remain unresolved, they can be appealed to the Utilities Committee and Common Council.

**2.5.3 Stormwater management plan review. Written procedures for post-construction site plan review which incorporate consideration of potential water quality impacts. Post-**

**construction site plan reviews shall be conducted for all construction sites with greater than one acre of land disturbance.**

Appleton contracts with a qualified consultant to review stormwater management plans for site plans and subdivisions submitted under the ordinance. The process for obtaining a Post-Construction Stormwater permit in the City of Appleton is outlined in the attached flowchart.

Post-construction sites with stormwater management requirements are documented on an Excel spreadsheet. The spreadsheet follows the project from initial submittal through plan review and approval, recording of the Operation and Maintenance Agreement and receipt of record drawings and certification. Hard copy files for all projects since the beginning of the program in 2004 are in the process of being scanned for electronic storage.

The Appleton City Attorney created a template for Operation and Maintenance Agreements between property owners and the City of Appleton to ensure long-term maintenance of stormwater facilities designed and constructed under the stormwater management ordinance. The applicant is responsible for providing a legal description for the agreement that is acceptable for recording at the appropriate County. This requirement is included on the application form signed by the owner and applicant.

Stormwater Management Plans include Operation and Maintenance (O & M) Plans and are reviewed for engineering standards by the consultant. The legal description for the agreement is reviewed by the City Surveyor. Once a stormwater management plan is approved, the O & M Plan and agreement, with approved legal description, are sent to the City Attorney's office for processing. The Attorney's office formats the document for recording, obtains signatures from the property owner and the City of Appleton, and records the document at the appropriate county. To ensure the agreements are signed and returned to the City within the allotted time, the City uses additional enforcement measures, such as a Stop Work Order or Notice of Non-compliance.

**2.5.4 Long term maintenance, inspections and enforcement. Written procedures that will be used by the permittee through its ordinance jurisdiction, approval process, and authority to, at a minimum, track and enforce the long-term maintenance of stormwater management facilities implemented to meet the applicable post-construction performance standards in section 2.5.1.c and d. of this permit. The procedures shall include:**

**a. A mechanism for tracking regulated sites.**

The city uses an Excel spreadsheet as a tracking mechanism for post-construction stormwater practices constructed on private property under the requirements of the ordinance.

**b. At a minimum, long-term maintenance inspections shall occur once during the permit term.**

The 2020 ordinance updated included the requirement for private stormwater practices to be inspected and certified by a Professional Engineer upon notification by the City. The City anticipates sending out the first notifications in 2021.

**c. Inspection documentation.**

Inspections and certification documents will be stored with the approved plans in on-line storage.

**d. Follow up enforcement with time frames for corrective maintenance.**

The City will issue a Notice of Non-compliance for any sites not providing the inspection and certification documents per the timeline in the notification.

Residential subdivisions are governed by development agreements between the City and the Developer that cover all aspects of the development, not just stormwater management. All residential subdivisions that have developed since 2004 have used wet ponds to meet the ordinance requirements. Through the development agreements, the City of Appleton has taken over ownership and long-term maintenance of these stormwater ponds after they have been constructed and stabilized per the approved vegetation plan. The details of the city's stormwater pond maintenance program are covered in the City of Appleton Pollution Prevention Program.

Attachments:

Stormwater Permit Application

Operation and Maintenance Agreement Template

Flowchart of plan approval process



# Stormwater Management Permit Application

Application Date: \_\_\_\_\_ Tax Key: 31- \_\_\_\_\_

Site Address: \_\_\_\_\_

Project Description: \_\_\_\_\_

Proposed Activity:    New Building \_\_\_\_\_    Building Addition \_\_\_\_\_    New Paving \_\_\_\_\_  
                                 Grading/Repaving \_\_\_\_\_    Subdivision \_\_\_\_\_    Redevelopment \_\_\_\_\_

Area of Parcel: \_\_\_\_\_ square feet    Disturbed Area: \_\_\_\_\_ square feet

Site Owner Name: \_\_\_\_\_ Company: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Billing Name: \_\_\_\_\_ Company: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Engineer Name: \_\_\_\_\_ Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

The undersigned agrees to conduct the above-described activities in accordance with the approved Stormwater Management Plan, and in strict compliance with all the provisions of the City of Appleton Ordinance and the Code of the State of Wisconsin, and to grant permission for reasonable inspections as a condition of this permit.

**OWNER'S STATEMENT:** I request that plans be reviewed for compliance with City of Appleton Municipal Code Chapter 20 and applicable State codes. I recognize that I am responsible for compliance with all code requirements and any conditions of plan approval. At a minimum, owner shall be responsible for submitting the following as conditions of the plan approval:

1. Owner shall submit as-built plans of the stormwater management practices identified in the Stormwater Management Plan within thirty (30) days of completion; and
2. Owner shall submit a certification by the design engineer stating that all practices function as approved in the Stormwater Management Plan. Said certification shall be submitted within ten (10) days of completion.
3. Owner shall provide a recordable legal description to be included with the Stormwater Management Practices Maintenance Agreement.

Owner recognizes that failure to provide the above information may be viewed as a violation of section 20-313 of the Appleton Municipal Code.

\_\_\_\_\_  
Owner – Print name

\_\_\_\_\_  
Approved By  
 - File

\_\_\_\_\_  
Signature of Owner  
 - Building Inspector       - Applicant



STORMWATER MANAGEMENT PRACTICES  
MAINTENANCE AGREEMENT

Record and return to:  
City of Appleton – City Attorney’s Office  
100 North Appleton Street  
Appleton, WI 54911-4799

Tax Key No:

**STORMWATER MANAGEMENT PRACTICES  
MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by and between \_\_\_\_\_, hereinafter called the "Owner" and the City of  
Appleton, hereinafter called the "City".

WITNESSETH:

WHEREAS, the Owner is the owner of the following described lands situated in the City of  
Appleton, \_\_\_\_\_ County, State of Wisconsin, to-wit:

Tax Key No.

Hereinafter called the "Property".

WHEREAS, the Owner is developing the Property; and

WHEREAS, the Site Plan identified as \_\_\_\_\_, hereinafter called  
the "Plan", which is expressly made a part of hereof, as approved or to be approved by the City,  
provides for on-site stormwater management practices within the confines of the Property; and

WHEREAS, the City and the Owner, its successors and assigns, including any homeowners  
association, agree that the health, safety and welfare of the residents of the City of Appleton,  
require that the on-site stormwater management practices as defined in Wisconsin Administrative  
Code NR 151, and the City of Appleton Stormwater Ordinance be constructed and maintained on  
the Property; and

WHEREAS, the City requires that on-site stormwater management practices as shown on  
the Plan be constructed and adequately maintained by the Owner, its successors and assigns,  
including any homeowners association.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The Owner, its successors and assigns, in accordance with the plans and specifications identified in the Plan, shall construct the on-site stormwater management facilities.
2. The Owner, its successors and assigns, including any homeowners association, shall adequately maintain the stormwater management practices, including, but not limited to, all pipes and channels built to convey stormwater to the facility, as well as all structures, improvements and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as keeping the stormwater management facilities in good working condition so that these facilities are performing their design functions and are in accordance with the Operation and Maintenance Plan attached to this agreement as Exhibit A and by this reference made a part hereof.
3. The Owner, its successors and assigns, shall regularly inspect the stormwater management practices as often as conditions require, but in any event at least twice each year. The standard Operation and Maintenance Report attached to this Agreement as Exhibit B and by this reference made a part hereof shall be used for the purpose of the regular inspections of the stormwater management practices. This report form may be periodically updated by the City. The Owner, successors and assigns shall keep the Operation and Maintenance Reports from past inspections as well as a log of maintenance activity indicating the date and type of maintenance completed. The reports and maintenance log shall be made available to the City for review upon request. The purpose of the inspections is to assure safe and proper functioning of the facilities. The inspections shall cover all facilities including, but not limited to, berms, outlet structures, pond areas and access roads. Deficiencies shall be noted in the Operation and Maintenance Report.
4. The Owner, its successors and assigns, hereby grants permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the stormwater management practices whenever the City deems necessary. The purpose of inspection is to investigate reported deficiencies, to respond to citizen complaints, or verify maintenance of on-site stormwater management practices. The City shall provide the Owner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary. Corrective actions shall be taken within a reasonable time frame as established by the City Engineer.
5. If the Owner, its successors and assigns, fails to maintain the stormwater management practices in good working condition acceptable to the City and does not perform the required corrective actions in the specified time, the City may:

- a. Issue a citation to the Owner, its successors and assigns. The penalty for violation of this section shall be not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense, and
  - b. Perform the corrective actions identified in the inspection report and assess the Owner, its successors and assigns for the cost of such work. The cost of such work shall be specially assessed against the Property pursuant to Wisconsin Statutes Section § 66.0703. If the facilities are located on an outlot owned collectively by a homeowners association, the City may assess each member of the homeowners association according to the ownership interest in the facilities located on the Property. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Owner outside of the easement for the stormwater management practices. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said stormwater management practices, and in no event shall this Agreement be construed to impose any such obligation on the City.
6. The Owner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management practices (including sediment removal) is outlined in the Operation and Maintenance Plan, the schedule will be followed.
7. 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 City of Appleton records the modified Maintenance Agreement with the \_\_\_\_\_ 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. Responsible party, as used in this paragraph, shall mean the Owner, its successors or assigns, who is responsible for the Maintenance Agreement at the time of any amendment.
8. In the event the City pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Owner, its successors and assigns, shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City hereunder. Failure of the Owner to make payment within thirty (30) days shall result in the amount being added to the tax roll as a special charge pursuant to paragraph 5(b).
9. This Agreement imposes no liability of any kind whatsoever on the City and the

Owner agrees to hold the City harmless from any liability in the event the stormwater management practices fail to operate properly.

10. This Agreement shall be attached as an exhibit to any document which creates a homeowners association that is responsible for maintenance of the stormwater management practices and be recorded at the Outagamie County Register of Deeds, and shall constitute a covenant running with the land, and shall be binding on the Owner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association. The Owner shall provide the City with a copy of any document, which creates a homeowners association that is responsible for the stormwater management practices.
11. Upon receipt of the executed Maintenance Agreement, the City of Appleton shall record said agreement in the Office of the Register of Deeds.

WITNESS the following signatures and seals:

**Owner Name**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF WISCONSIN            )  
  : ss.  
\_\_\_\_\_ COUNTY )

The foregoing Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ and \_\_\_\_\_.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Notary Public, State of Wisconsin

My commission is/expires \_\_\_\_\_

**City of Appleton**

By: \_\_\_\_\_  
Jacob A. Woodford, Mayor

By: \_\_\_\_\_  
Kami Lynch, City Clerk

STATE OF WISCONSIN        )  
  : ss.  
OUTAGAMIE COUNTY        )

The foregoing Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Jacob A. Woodford, Mayor and Kami Lynch, City Clerk.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is/expires \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher R. Behrens, City Attorney

This instrument was drafted by:  
Attorney Christopher R. Behrens  
City Law A20-0275 (Form)

# STORMWATER PLAN REVIEW PROCESS

June 24, 2020

