



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
[www.appleton.org](http://www.appleton.org)

## Meeting Agenda - Final-revised Common Council

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Wednesday, April 3, 2019

7:00 PM

Council Chambers

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- A. CALL TO ORDER
- B. INVOCATION
- C. PLEDGE OF ALLEGIANCE TO THE FLAG
- D. ROLL CALL OF ALDERPERSONS
- E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS
- F. PUBLIC PARTICIPATION
- G. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES
  - [19-0441](#) Common Council Meeting Minutes of March 20, 2019
    - Attachments:** [CC Minutes 3-20-19.pdf](#)
- H. BUSINESS PRESENTED BY THE MAYOR
  - [19-0435](#) Committee Reappointments
    - Attachments:** [COMMITTEE REAPPTS 040319.pdf](#)
  - [19-0436](#) Appointment of Rudy Nyman to the Police & Fire Commission
    - Attachments:** [APPT TO POLICE FIRE COMM 040319.pdf](#)
- I. PUBLIC HEARINGS
  - [19-0274](#) Public Hearing, Street Vacation, E. Pacific Street
    - Attachments:** [Public Hearing - E Pacific Street, east of N Owaissa.pdf](#)
- J. SPECIAL RESOLUTIONS

[19-0440](#) Final Resolution for E. Pacific Street Vacation

**Attachments:** [Pacific Street - Final Resolution.pdf](#)

[19-0443](#) Initial Resolution for E. Kimball Street Vacation

**Attachments:** [Initial Resolution - E Kimball St Vacation.pdf](#)

K. ESTABLISH ORDER OF THE DAY

L. COMMITTEE REPORTS

**1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE**

[19-0418](#) Request from Taste of Thai for a Street Occupancy Permit to place tables and chairs in the College Avenue Beautification strip at 321 E. College Avenue.

**Attachments:** [Taste of Thai.pdf](#)

[19-0419](#) Request from Renewal by Anderson to replace Radisson Paper Valley signage on the Superior Street Skywalk with their signage.

**Attachments:** [Renewal by Anderson Signage.pdf](#)

[19-0420](#) Approve Kimball Street Vacation west of Allen Street, less the future S. Oneida Street right-of-way.

**Attachments:** [Kimball Street Vacation.pdf](#)

**2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE**

[19-0412](#) Resolution #3-R-19 directing that Section 10-42 of the Municipal Code regarding truancy, be repealed

**Attachments:** [#3-R-19 Repealing Truancy Ord..pdf](#)

[Truancy Resolution Talking Points- Chief Thomas-4-1-19.pdf](#)

**Legislative History**

3/27/19 Safety and Licensing Committee recommended for denial

*The following individuals spoke on this item:*

*Ronna Swift, 230 W Seymour St*

*Edward Perkins, 4486 N Whitehawk Dr*

*John Krueger, 2410 W Cortland Dr*

*Alvin Terrance Dupree Jr., 921 E Foxmoor Ln*

*A vote to recommend approval of this item failed 2/3.*

[19-0382](#) Class "B" Beer and "Class C" Wine application of Pinot's Palette, Located at 226 E. College Ave, Brianne Getchius, Agent, contingent upon approval from all departments.

**Attachments:** [Liquor License-Pinots Palette.pdf](#)

**Legislative History**

3/27/19 Safety and Licensing Committee recommended for approval

[19-0385](#) Change of Agent application for Skyline Comedy Club, located at 1004 S. Olde Oneida St Suite 3.

**Attachments:** [Bridget M. Friel s&l.pdf](#)

**Legislative History**

3/27/19 Safety and Licensing Committee recommended for approval

[19-0386](#) Change of Agent application for The Viking Room at Lawrence University of Wisconsin, located at 615 E. College Ave, Appleton WI 54911

**Attachments:** [Gregory L. Griffin s&l.pdf](#)

**Legislative History**

3/27/19 Safety and Licensing Committee recommended for approval

[19-0395](#) Operator's Licenses

**Attachments:** [Operator's Licenses for 3-27-19 S & L.pdf](#)

**Legislative History**

3/27/19 Safety and Licensing Committee recommended for approval

[19-0401](#) Approval of single source purchase for a new ladder truck in January 2020.

**Attachments:** [New Ladder Truck-FIRE.pdf](#)

**Legislative History**

3/27/19 Safety and Licensing Committee recommended for approval

### 3. MINUTES OF THE CITY PLAN COMMISSION

[19-0392](#) Request to approve Special Use Permit #3-19 for a restaurant with alcohol sales and service located at 216 East College Avenue (Tax Id #31-2-0317-00), as shown on the attached maps and per attached plan of operation, to run with the land subject to the conditions in the attached staff report and approve attached Resolution (2/3 vote of Common Council required for approval)

**Attachments:** [StaffReport 216College SUP For3-26-19.pdf](#)

**Legislative History**

3/26/19 City Plan Commission recommended for approval

[19-0394](#) Request to approve the street discontinuance to vacate a portion of East Kimball Street public right-of-way located west of South Allen Street and adopt the Initial Resolution and exhibit map

**Attachments:** [StaffReport KimballWestOfAllen StreetVacation For03-26-19.pdf](#)

**Legislative History**

3/26/19 City Plan Commission recommended for approval

**4. MINUTES OF THE PARKS AND RECREATION COMMITTEE**

**5. MINUTES OF THE FINANCE COMMITTEE**



[19-0416](#)

Resolution introduced by Alderpersons Plank, District 7, Coenen, District 11 and Croatt, District 14 at the March 20, 2019 Common Council meeting relating to Special Events:

#2-R-19 - Plank/Coenen/Croatt

Whereas,  
special events held in the city of Appleton, contribute to the quality of life and draw thousands of visitors both from within the city and beyond.

And whereas,  
these events benefit many local for profit and not for profit entities.

And whereas,  
event holders, attendees and tax paying citizens of Appleton have a high expectation that these events are conducted with the utmost priority given to safety and cleanliness in the hours before, during and after.

And whereas,  
events vary in their demands for city services to meet this expectation, and in 2017, for the significant size events alone, the tax payers of Appleton funded in excess of \$50,000 in city services.

And whereas,  
events where a high amount of alcohol is consumed, and trash is accumulated, create a unique and particular residual stress on the department of public works and the police department many hours past the end of an event.

And whereas,  
comparable municipalities who also enjoy similar wonderful events, recognize the value and cost of city services and constraints on the city tax payers and budget and are charging a fee for services provided.

And whereas,  
groups holding and participating in special events also appreciate and desire to continue for the City to provide sanitation and public safety services necessary for their event.

Therefore, be it resolved,  
the City of Appleton modify the special events policy to include a method that monetarily reimburses the city for a portion or total of the staff time and labor necessary to cleanly and safely execute and clean up after special events.

**Legislative History**

3/25/19 Finance Committee recommended for denial

[19-0405](#)

Request to deny the Claim for Excessive Assessment from Wal-mart for the tax year 2018

**Attachments:** [Wal-mart Claim for Finance Committee.pdf](#)**Legislative History**

3/25/19 Finance Committee recommended for approval

[19-0406](#)

Request to award the Fire Station #1 2019 Partial Roof Replacement project contract to Kaschak Roofing, Inc in the amount of \$137,100 with a contingency of 15% for a project total not to exceed \$157,665

**Attachments:** [2019 Fire Station #1 Roof Replacement .pdf](#)**Legislative History**

3/25/19 Finance Committee recommended for approval

[19-0407](#)

Request approval of resolution for Lawe Street Trestle Trail Grant Application

**Attachments:** [Lawe Street Trestle Project - Resolution.pdf](#)**Legislative History**

3/25/19 Finance Committee recommended for approval

[19-0410](#)

Request to approve the 2018-2019 Budget appropriations:

1. Items not under contract \$9,219,631
2. Special consideration \$2,127,320

**Attachments:** [2018-19 Not-Under contract carryover list.pdf](#)[2018-19 Special consideration carryover list.pdf](#)**Legislative History**

3/25/19 Finance Committee recommended for approval

[19-0411](#)

Request to approve land purchase from Neenah Paper FR, LLC in the amount of \$100

**Attachments:** [Neenah Paper Land Purchase Final \(3-25-19 Finance\).pdf](#)**Legislative History**

3/25/19 Finance Committee recommended for approval

[19-0413](#) Request to award Unit C-19 Sidewalk Sawcutting to ASTI Sawing, Inc in the amount not to exceed \$30,000

**Attachments:** [Award of Contract Unit C-19.pdf](#)

**Legislative History**

3/25/19 Finance Committee recommended for approval

[19-0414](#) Request to award Unit E-19 Miscellaneous Concrete and Street Excavation Repair to Fischer-Ulman Construction, Inc in an amount not to exceed \$701,300

**Attachments:** [Award of Contract Unit E-19.pdf](#)

**Legislative History**

3/25/19 Finance Committee recommended for approval

[19-0415](#) Request to award Unit Y-19 Sewer & Water Reconstruction #3 to VanStraten Construction Co in the amount of \$1,581,773 with a 5% contingency of \$79,089 for a project total not to exceed \$1,660,862

**Attachments:** [Award of Contract Unit Y-19.pdf](#)

**Legislative History**

3/25/19 Finance Committee recommended for approval

[19-0428](#) Request to approve the following 2018 Budget adjustment:

**TIF 7 Capital Projects Fund**

Other Contracts/Obligations	+\$16,263
Interest Income	+\$ 4,585
Fund Balance	+\$11,678

to record additional revenues and expenses in TIF 7 in excess of budget (2/3 of Common Council required for approval)

**Attachments:** [2018 Corrected Final Budget adjustments .pdf](#)

**Legislative History**

3/25/19 Finance Committee recommended for approval

6. **MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE**
7. **MINUTES OF THE UTILITIES COMMITTEE**
8. **MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE**

**9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION**

[19-0424](#) Authorization to purchase Paratransit Scheduling & Dispatching Software

**Attachments:** [Memo Paratransit software.pdf](#)

**Legislative History**

3/26/19 Fox Cities Transit Commission recommended for approval

**10. MINUTES OF THE BOARD OF HEALTH****M. CONSOLIDATED ACTION ITEMS**

[19-0442](#) Street Vacation of East Kimball Street  
*Item 19-0443 Special Resolutions*  
*Item 19-0420 Municipal Services Committee*  
*Item 19-0394 City Plan Commission*

**N. ITEMS HELD****O. ORDINANCES**

[19-0434](#) Ordinances 36-19 to 42-19

**Attachments:** [Ordinances Going to Council 4-3-19.pdf](#)

**P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION****Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION****R. OTHER COUNCIL BUSINESS**

[19-0439](#) Reconsideration of Resolution #R-1-19 Regarding E-Cigarettes, as amended on 3-20-2019

**Attachments:** [#1-R-19 E-Cigarettes - Amended 3-20-19.pdf](#)

[19-0438](#) Recognition of Alderpersons who will not be returning for another term

**S. ADJOURN**

Kami Lynch, City Clerk

*Reasonable accommodations for persons with disabilities will be made upon request and if feasible.*





# City of Appleton

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## Meeting Minutes - Final Common Council

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Wednesday, March 20, 2019

7:00 PM

Council Chambers

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A. CALL TO ORDER

*The meeting was called to order by Mayor Hanna at 7:00 p.m.*

B. INVOCATION

*The Invocation was offered by Alderperson Spears.*

C. PLEDGE OF ALLEGIANCE TO THE FLAG

D. ROLL CALL OF ALDERPERSONS

**Present:** 15 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Curt Konetzke, Alderperson Joe Martin, Alderperson Ed Baranowski, Alderperson Rachel Raasch, Alderperson Matt Reed, Alderperson Bob Baker, Alderperson Christine Williams, Alderperson Patti Coenen, Alderperson Cathy Spears, Alderperson Kyle Lobner, Alderperson Chris Croatt, Alderperson Keir Dvorachek and Mayor Timothy Hanna

**Excused:** 1 - Alderperson Kathleen Plank

E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

*City Attorney Walsh, Deputy City Attorney Behrens, City Clerk Lynch, Director of Community & Economic Development Harkness, Director of Finance Saucerman, Fire Chief Hansen, Health Officer Eggebrecht, Library Director Rortvedt, Police Chief Thomas, Director of Public Works Vandehey.*

*The following were excused:*

*Human Resources*

*Information Technology*

*Parks, Recreation & Facilities*

*Utilities*

*Valley Transit*

## F. PUBLIC PARTICIPATION

*The following spoke during Public Participation regarding Item 19-0185 E-Cigarette Resolution:*

*Cindy Czarnik-Neimeyer, 120 E Harris St  
Ken Kemper, 1725 S Oneida St  
Wendy VanderZanden, 126 S Main St  
Emma Kane, 1804 N Charlotte St  
Benjamin Grothe, 420 E Northland Ave  
George Packard, 1375 Cooke Road, Neenah  
Lee Vogel, N2621 N Meade St  
Melissa Adlebush, 3197 Mill Rd  
Beth Menzel, 3670 N Maple Edge Ct  
Khris Fishcer, 2575 S Memorial Dr  
John Knox, 612 S Lee St  
Nate Wolff, 1800 W Marquette St  
Mike Dix, 3480 W College Ave  
Thomas Rain, 921 S 7th St, DePere  
Ronna Swift, 230 W Seymour St*

## G. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[19-0387](#)

Common Council Meeting Minutes of March 6, 2019

**Attachments:** [CC Minutes 3-6-19.pdf](#)

**Aldersperson Baranowski moved, seconded by Aldersperson Croatt, that the Minutes be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Curt Konetzke, Aldersperson Joe Martin, Aldersperson Ed Baranowski, Aldersperson Rachel Raasch, Aldersperson Matt Reed, Aldersperson Bob Baker, Aldersperson Christine Williams, Aldersperson Patti Coenen, Aldersperson Cathy Spears, Aldersperson Kyle Lobner, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

**Excused:** 1 - Aldersperson Kathleen Plank

**Abstained:** 1 - Mayor Timothy Hanna

## H. BUSINESS PRESENTED BY THE MAYOR

[19-0300](#)

CPR Life-saver recognition of Luke Benrud

**The life-saver award was presented.**

[19-0388](#)

Announcement of the Winning Poems from the 2019 Sidewalk Poetry Program

**The winning poems were presented.**

## I. PUBLIC HEARINGS

[19-0154](#) Public Hearing, Rezoning #3-19, E. Glenhurst Ln and N Lightning Dr, from C-O to R-3

**Attachments:** [REVISED\\_RZ #3-19, Public Hearing Notice.pdf](#)

*The following spoke during the Public Hearing:*

*Mary Ann O'Connor, 2379 E Glenhurst Ln  
Tom & Kristin Schrei, 2301 E Glenhurst Ln  
Rachel Rogowski, 2447 E Glenhurst Ln  
Henry Chou, 3033 W Spencer St Suite 102  
Kathi Drake, 2433 E Glenhurst Ln  
Gordon Hale, 2319 E Glenhurst Ln  
Cathy Van Deurzen, 2355 E Glenhurst Ln  
Jason Mroz, 2425 E Glenhurst Ln  
Sylvia Bull, 2459 Glenhurst Ln  
Cara & Matt Muchow, 4620 N Lightning Dr  
Deb Blank, 2623 Sundance Dr  
Jeff Drake, 2433 E Glenhurst Ln*

## J. SPECIAL RESOLUTIONS

## K. ESTABLISH ORDER OF THE DAY

*A 10-minute break was taken per Council Rules.*

[19-0325](#) Approve proposed changes to the Sidewalk Maintenance Policy.

**Attachments:** [Sidewalk Maintenance Policy.pdf](#)

*This item was referred back to the Municipal Services Committee by Alderperson Croatt.*

**This Report Action Item was referred to the Municipal Services Committee due back on 4/8/2019.**

[19-0342](#) Approve parking restrictions on Evergreen Drive from Haymeadow Avenue to Meade Street.

**Attachments:** [Parking changes related to Evergreen Drive bike lane retrofit project \(Haymeadow to Meade\).pdf](#)

*This Item was referred back to the Municipal Services Committee by Alderperson Spears.*

**This Report Action Item was referred to the Municipal Services Committee due back on 4/8/2019.**



[19-0164](#)

Request to approve Rezoning #3-19 for the subject parcels located on East Glenhurst Lane (Tax Id #31-1-6501-03 and #31-1-6501-04, Lots 3 and 4 of the Apple Creek Center plat), including all of the adjacent one-half (1/2) right-of-way of East Glenhurst Lane and North Lightning Drive, as shown on the attached maps, from C-O Commercial Office District to R-3 Multi-Family District

**Attachments:**    [StaffReport\\_GlenhurstLane\\_Rezoning\\_For02-26-19.pdf](#)  
[StaffReport\\_GlenhurstLane\\_Rezoning\\_For02-12-19.pdf](#)  
[Addl Email Distributed at 2-26-19 PC mtg.pdf](#)  
[Handout\\_Gordon Hale\\_Traffic.pdf](#)  
[Handout\\_Gordon Hale\\_Values.pdf](#)  
[Handout\\_Henry Chou\\_Photos.pdf](#)

**Aldersperson Konezke moved, seconded by Aldersperson Spears, that the Rezoning be approved. Roll Call. Motion failed by the following vote:**

**Aye:** 1 - Aldersperson Joe Martin

**Nay:** 13 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Curt Konezke, Aldersperson Ed Baranowski, Aldersperson Rachel Raasch, Aldersperson Matt Reed, Aldersperson Bob Baker, Aldersperson Christine Williams, Aldersperson Patti Coenen, Aldersperson Cathy Spears, Aldersperson Kyle Lobner, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

**Excused:** 1 - Aldersperson Kathleen Plank

**Abstained:** 1 - Mayor Timothy Hanna

[19-0185](#)

Resolution #1-R-19: E-Cigarettes

**Attachments:**    [Resolution #1-R-19 E-Cigarettes.pdf](#)  
[Surgeon General's Advisory on E-cigarette Use Among Youth.pdf](#)  
[Xtreme Vape, LLC Email.pdf](#)  
[WI Department of Health Services E-Cigarette Public Health Advisory.pdf](#)  
[Public Health Consequences of E-Cigarettes-Conclusions by Level of Evidence.pdf](#)  
[Perio-Implant Advisory- Vaping and Oral Health.pdf](#)  
[Attorney's Office Memo.pdf](#)

**Aldersperson Meltzer moved, seconded by Aldersperson Lobner, that the Resolution be amended as follows:**

**Make an exemption for businesses that ID customers at the door and don't allow anyone under 18 on their premises, to allow sampling exclusively of electronic non-combustible products.**

**Roll Call. Motion carried by the following vote:**

**Aye:** 12 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Curt Konezke, Alderperson Joe Martin, Alderperson Rachel Raasch, Alderperson Matt Reed, Alderperson Bob Baker, Alderperson Christine Williams, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Chris Croatt and Alderperson Keir Dvorachek

**Nay:** 2 - Alderperson Ed Baranowski and Alderperson Cathy Spears

**Excused:** 1 - Alderperson Kathleen Plank

**Abstained:** 1 - Mayor Timothy Hanna

**Alderperson Spears moved, seconded by Alderperson Baker, that the Resolution be approved as amended. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Curt Konezke, Alderperson Joe Martin, Alderperson Ed Baranowski, Alderperson Rachel Raasch, Alderperson Matt Reed, Alderperson Bob Baker, Alderperson Christine Williams, Alderperson Patti Coenen, Alderperson Cathy Spears, Alderperson Kyle Lobner, Alderperson Chris Croatt and Alderperson Keir Dvorachek

**Excused:** 1 - Alderperson Kathleen Plank

**Abstained:** 1 - Mayor Timothy Hanna

[19-0328](#)

Request from Gene Jacquet, 331 W. Foster Street, to have his sidewalk snow removal bill of \$75 waived.

**Attachments:** [331 W. Foster Street.pdf](#)

*A notwithstanding vote was taken, an aye vote approves the waiver of fee request and a nay vote denies the request.*

**Alderperson Croatt moved, seconded by Alderperson Martin, that the Fee Waiver Request be approved. Roll Call. Motion failed by the following vote:**

**Aye:** 3 - Alderperson Vered Meltzer, Alderperson Ed Baranowski and Alderperson Matt Reed

**Nay:** 11 - Alderperson William Siebers, Alderperson Curt Konezke, Alderperson Joe Martin, Alderperson Rachel Raasch, Alderperson Bob Baker, Alderperson Christine Williams, Alderperson Patti Coenen, Alderperson Cathy Spears, Alderperson Kyle Lobner, Alderperson Chris Croatt and Alderperson Keir Dvorachek

**Excused:** 1 - Alderperson Kathleen Plank

**Abstained:** 1 - Mayor Timothy Hanna

[19-0330](#)

Approve Aesthetic Standards for Small Cell Wireless Facilities and other private utilities within the public right-of-way.

**Attachments:** [Aesthetic Standards for Small Cell Wireless and Other Private Utilities In Public Right-Of-Way.pdf](#)

**Aldersperson Croatt moved, seconded by Aldersperson Dvorachek, that the Aesthetic Standards be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 13 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Curt Konezke, Aldersperson Joe Martin, Aldersperson Ed Baranowski, Aldersperson Rachel Raasch, Aldersperson Matt Reed, Aldersperson Bob Baker, Aldersperson Christine Williams, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

**Nay:** 1 - Aldersperson Cathy Spears

**Excused:** 1 - Aldersperson Kathleen Plank

**Abstained:** 1 - Mayor Timothy Hanna

[19-0347](#)

Request to approve Relocation Order for Construction of Oneida Street, south of Lawrence Street, a stairway to Rocky Bleier Run, assess to the public parking ramp and necessary retaining walls

**Attachments:** [Oneida \(Pfefferle-Hoffman\) - Relocation Order.pdf](#)

**Aldersperson Croatt moved, seconded by Aldersperson Konezke, that the Relocation Order be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Curt Konezke, Aldersperson Joe Martin, Aldersperson Ed Baranowski, Aldersperson Rachel Raasch, Aldersperson Matt Reed, Aldersperson Bob Baker, Aldersperson Christine Williams, Aldersperson Patti Coenen, Aldersperson Cathy Spears, Aldersperson Kyle Lobner, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

**Excused:** 1 - Aldersperson Kathleen Plank

**Abstained:** 1 - Mayor Timothy Hanna

L. COMMITTEE REPORTS

**Balance of the action items on the agenda.**

**Aldersperson Baranowski moved, Aldersperson Konezke seconded, to approve the Balance of the Agenda, excluding the Ordinance (#35-19). The motion carried by the following vote:**

**Aye:** 15 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Curt Konezke, Alderperson Joe Martin, Alderperson Ed Baranowski, Alderperson Rachel Raasch, Alderperson Matt Reed, Alderperson Bob Baker, Alderperson Christine Williams, Alderperson Patti Coenen, Alderperson Cathy Spears, Alderperson Kyle Lobner, Alderperson Chris Croatt, Alderperson Keir Dvorachek and Mayor Timothy Hanna

**Excused:** 1 - Alderperson Kathleen Plank

## 1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[19-0326](#)

Approve installation of STOP control on Washington Street at Bennett Street. Follow up to six-month trial period.

**Attachments:** [Intersection traffic control Bennett Street at Washington Street. Follow up to six month trial period.pdf](#)

**This Report Action Item was approved.**

[19-0327](#)

Approve parking restrictions on Wayne Street north of Wisconsin Avenue. Follow up to six-month trial period.

**Attachments:** [Parking restriction changes on Wayne Street, north of Wisconsin Avenue. Follow up to six month trial period.pdf](#)

**This Report Action Item was approved.**

[19-0329](#)

Approve updates to Municipal Code Sections 16-135 through 16-148 related to wireless telecommunication facilities in the right-of-way.

**Attachments:** [Municipal Code Sections 16-135 through 16-148 Wireless Telecommunications Facilities in the Right-Of-Way.pdf](#)

**This Report Action Item was approved.**

[19-0331](#)

Approve 2019 Department of Public Works Fee Schedule.

**Attachments:** [Fee Schedules Department of Public Works.pdf](#)

**This Report Action Item was approved.**

[19-0340](#)

Approve parking restriction changes on the 200 block of N. Bennett Street. Follow up to six-month trial period.

**Attachments:** [Parking restriction changes on the 200 block of N. Bennett Street. Follow up to six-month trial period.pdf](#)

**This Report Action Item was approved.**

[19-0341](#)

Approve ALL WAY STOP control at the Cedar Street at Mason Street intersection. Follow up to six-month trial period.

**Attachments:** [Intersection traffic control Cedar Street at Mason Street intersection. Follow up to six-month trial period.pdf](#)

This Report Action Item was approved.

[19-0360](#)

Request from Josh Nave for a permanent street occupancy permit to install a new awning that extends into the College Avenue right-of-way at 125 E. College Avenue be denied.

**Attachments:** [125 E. College Avenue.pdf](#)

This Report Action Item was approved.

## 2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[19-0343](#)

Operator's Licenses

**Attachments:** [Operator's Licenses for 3-13-19 S & L.pdf](#)

This Report Action Item was approved.

[19-0357](#)

Class "B" Beer and Reserve "Class B" Liquor application of Christianos Pizza, Located at 2400 Kensington Dr, Paul Wise, Agent, contingent upon approval from all departments.

**Attachments:** [Liquor License-Christianos Pizza.pdf](#)

This Report Action Item was approved.

[19-0359](#)

Cigarette and Tobacco License application for The Factory, Eugene Rice, Agent, 508 W. College Ave.

**Attachments:** [The Factory S&I.pdf](#)

This Report Action Item was approved.

## 3. MINUTES OF THE CITY PLAN COMMISSION

## 4. MINUTES OF THE PARKS AND RECREATION COMMITTEE

## 5. MINUTES OF THE FINANCE COMMITTEE

[19-0349](#)

Request for City of Appleton to waive the sidewalk special assessment for 1225 W Cedar Street in exchange for dedication of 752 SF of property needed for future maintenance, and to install a sheet pile retaining wall for the construction of the sidewalk / multi-purpose sidepath

**Attachments:** [Cedar St sidewalk sp assessment.pdf](#)

**This Report Action Item was approved.**

[19-0352](#)

Request to approve the following 2018 Budget adjustments:

**Housing Rehabilitation Grant**

Project Repayment Revenue	+ \$ 53,900
Federal Grants	+ \$ 76,000
Fund Balance	- \$ 42,511
Grant Expenses	+\$172,411

to record additional project repayments and grant funds awarded in 2018 and related expenditures (2/3 of Common Council required for approval)

**Police Grants Fund**

State Grants	+ \$60,660
Local Aid	+ \$10,000
Grant Expenses	+ \$70,660

to record additional local and state grant revenue and related expenditures (2/3 of Common Council required for approval)

**General Fund- Fire Department**

State Aids	+ \$70,000
Salaries	+ \$70,000

to record additional State reimbursement for overtime incurred in training exercises (2/3 of Common Council required for approval)

**General Fund**

Salaries/Fringe Benefits - Police Department	+ \$97,000
Salaries/Fringe Benefits - Mayors Office	+ \$ 1,100
Wage Reserve	- \$98,100

to allocate wage reserve funds (2/3 of Common Council required for approval)

**Attachments:** [Finance Committee - 2018 Final Budget adjustments\\_.pdf](#)

**This Report Action Item was approved.**

## 6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

[19-0305](#)

Request to approve the repurchase of Lot 4 of Plat 4 in the Northeast Industrial Park from Onstage Audio, LLC (d/b/a Event Production Systems) under the terms outlined in Section 11 of the Declaration of Covenants and Restrictions and increase the purchase price by the cost of the wetland delineation

**Attachments:** [Onstage Audio \(EPS\) Repurchase Memo 3-5-19.pdf](#)  
[Letter From EPS Requesting Repurchase of 1-5362 Goodland Drive.pdf](#)  
[NE Ind Park Plat 4 Deed Restrictions & Covenants.pdf](#)  
[Repurchase Calcs for Lot 4 Plat 4 NE Ind Park.pdf](#)  
[EPS Subject Area.pdf](#)

**This Report Action Item was approved.**

[19-0306](#)

Request to approve recommended funding of \$15,500 for 2019 sponsorships for Appleton Downtown Inc. (ADI) programs as outlined in the attached document

**Attachments:** [Memo to CEDC on ADI Sponsorships 2019.pdf](#)  
[ADI Support Proposal to City 2019.pdf](#)

**This Report Action Item was approved.**

[19-0307](#)

Request to approve the City of Appleton maintain its current selling prices for business/industrial park land as described in the attached documents

**Attachments:** [Business-Industrial Park Land Value Memo.pdf](#)  
[Exhibit A-Ind Land Sales Comparison.pdf](#)  
[Exhibit B-Ind Land Asking Price Comparison.pdf](#)  
[Southpoint Map.pdf](#)  
[NE Business Park Map.pdf](#)

**This Report Action Item was approved.**

## 7. MINUTES OF THE UTILITIES COMMITTEE

[19-0319](#)

Approve 2018 Annual Stormwater Report to the Wisconsin Department of Natural Resources.

**Attachments:** [2018 Annual Report to UC with attachments.pdf](#)

**This Report Action Item was approved.**

[19-0320](#)

Award of 2019H Consulting Services Contract to NES Ecological Services for Wetland Delineations in an amount not to exceed \$30,000.

**Attachments:** [2019H Wetland Delineations Award Memo Final 03-04-2019.pdf](#)

This Report Action Item was approved.

**8. MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE**

**9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION**

**10. MINUTES OF THE BOARD OF HEALTH**

M. CONSOLIDATED ACTION ITEMS

N. ITEMS HELD

O. ORDINANCES

[19-0353](#)

Ordinance 35-19

**Attachments:** [Ordinance going to Council 3-20-19.pdf](#)

*No action was taken on this Ordinance as the Rezoning (Item 19-0164) was denied.*

**P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION**



Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION

#2-R-19

*Resolution Regarding Special Events*

*March 20, 2019*

*Submitted by Alderpersons:*

*Kathleen S. Plank, District 7*

*Patti Coenen, District 11*

*Christopher Croatt, District 14*

*Referred to: Finance Committee*

*Whereas,*

*special events held in the city of Appleton, contribute to the quality of life and draw thousands of visitors both from within the city and beyond.*

*And whereas,*

*these events benefit many local for profit and not for profit entities.*

*And whereas,*

*event holders, attendees and tax paying citizens of Appleton have a high expectation that these events are conducted with the utmost priority given to safety and cleanliness in the hours before, during and after.*

*And whereas,*

*events vary in their demands for city services to meet this expectation, and in 2017, for the significant size events alone, the tax payers of Appleton funded in excess of \$50,000 in city services.*

*And whereas,*

*events where a high amount of alcohol is consumed, and trash is accumulated, create a unique and particular residual stress on the department of public works and the police department many hours past the end of an event.*

*And whereas,*

*comparable municipalities who also enjoy similar wonderful events, recognize the value and cost of city services and constraints on the city tax payers and budget and are charging a fee for services provided.*

*And whereas,*

*groups holding and participating in special events also appreciate and desire to continue for the City to provide sanitation and public safety services necessary for their event.*

*Therefore, be it resolved,*

*the City of Appleton modify the special events policy to include a method that monetarily reimburses the city for a portion or total of the staff time and labor necessary to cleanly and safely execute and clean up after special events.*

#3-R-19

*Repealing the Truancy Ordinance*

*March 20, 2019*

*Submitted By: Alderperson William J. Siebers, District 1*

*Referred To: Safety & Licensing Committee*

*Whereas, the City of Appleton has through the City Attorney's office and the Appleton Police Department, been a partner with the school district in addressing truancy issues*

*and,  
Whereas, the City's authority to deal with truancy issues is outlined in Section 10-42 of the City Code and is referenced by Wisconsin State Statute chapter 118, and at times is done by punitive means,  
Whereas, the Honorable James Morrison – Chief Judge of the 8th Judicial District – in his letter dated January 3, 2019 to the Appleton Area School District administration, announcing that judges in the 8th Judicial District would no longer be a part of the truancy court, stated that preventing truancy is fundamentally the responsibility of educational officers and best handled by the school district and,  
Whereas, the Appleton Area School District would retain the ability to issue truancy citations under state law where city ordinance Section 10-42 is repealed and,  
Whereas, truants in a national student truancy survey cited boredom, loss of interest in school, irrelevant courses, suspensions, bad relationships with teachers, struggles academically, not having friends who are attending school regularly, seeing no reason for attending school, and feeling socially isolated in school for not attending classes and most educators believing that family problems cause chronic truancy and,  
Whereas, the fact that the School District and Human Social Services can deal with these issues without punitive measures, which are asked to be carried out by the Police Department and City Attorney's office,  
Therefore Be It Resolved, that City Ordinance Section 10-42, dealing with truancy be repealed.*

R. OTHER COUNCIL BUSINESS

S. ADJOURN

**Aldersperson Baranowski moved, seconded by Aldersperson Baker, that the meeting be adjourned at 10:28 p.m. Roll Call. Motion carried by the following vote:**

**Aye:** 15 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Curt Konezke, Aldersperson Joe Martin, Aldersperson Ed Baranowski, Aldersperson Rachel Raasch, Aldersperson Matt Reed, Aldersperson Bob Baker, Aldersperson Christine Williams, Aldersperson Patti Coenen, Aldersperson Cathy Spears, Aldersperson Kyle Lobner, Aldersperson Chris Croatt, Aldersperson Keir Dvorachek and Mayor Timothy Hanna

**Excused:** 1 - Aldersperson Kathleen Plank


Kami Lynch, City Clerk



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

**OFFICE OF THE MAYOR**  
Timothy M. Hanna  
100 North Appleton Street  
Appleton, Wisconsin 54911-4799  
(920) 832-6400 FAX (920) 832-5962  
e-mail: mayor@appleton.org

**TO:** Members of the Common Council

**FROM:** Mayor Timothy Hanna 

**DATE:** March 29, 2019

**RE:** Committee Reappointments

---

It is with pleasure that I present the following reappointments for your information at the April 3<sup>rd</sup> Common Council meeting:

**BOARD OF REVIEW**

Peter Stueck	1-year term to expire 4/2020
Linda Marx	1-year term to expire 4/2020
James Smith	1-year term to expire 4/2020

**FOX CITIES TRANSIT COMMISSION**

Richard Detienne	3-year term to expire 4/2022
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**BOARD OF HEALTH**

Lee Vogel	2-year term to expire 4/2021
Doug Nelson	2-year term to expire 4/2021

**CITY PLAN COMMISSION**

Tanya Rabec	3-year term to expire 4/2021
Adrienne Palm	3-year term to expire 4/2021



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

**OFFICE OF THE MAYOR**  
Timothy M. Hanna  
100 North Appleton Street  
Appleton, Wisconsin 54911-4799  
(920) 832-6400 FAX (920) 832-5962  
email: mayor@appleton.org

March 29, 2019

Members of the Common Council:

The following is being presented for your confirmation at the April 3 Council meeting:

**POLICE & FIRE COMMISSION**

Appointment of one (1) member to fill the vacated term by Dale Schumaker:

**RUDY NYMAN**  
**5-year term to expire 5/2024**

Rudy began his career in law enforcement with the Appleton Police Department in 1992, after serving 27 years, he recently retired in February 2019.

Prior to joining the Appleton Police Department, Rudy earned his Bachelors of Science Degree in Criminal Justice from Northern Michigan University in 1990. He then went on to serve as a Military Policeman in the U.S. Army.

While working at APD, Rudy was involved in various aspects of the department. He served on the SWAT team, was a multi-topic Department trainer, coordinated special events/presidential campaign visits, coordinated radio communications, in charge of hiring and training officers, and served as the Emergency Management Coordinator.

Rudy and his wife Delcene have been married for 29 years. They reside on the south side of Appleton and have two children, Kortney and Brett.

It is with pleasure that I make this recommendation.

Sincerely,

TIMOTHY M. HANNA  
Mayor of Appleton

**NOTICE OF PROPOSED STREET VACATION**

(Pursuant to Section 66.1003, Wisconsin Statutes-2013-2014)

Notice is hereby given that a written resolution has been filed with the Common Council of the City of Appleton for the discontinuance of:

**LEGAL DESCRIPTION:**

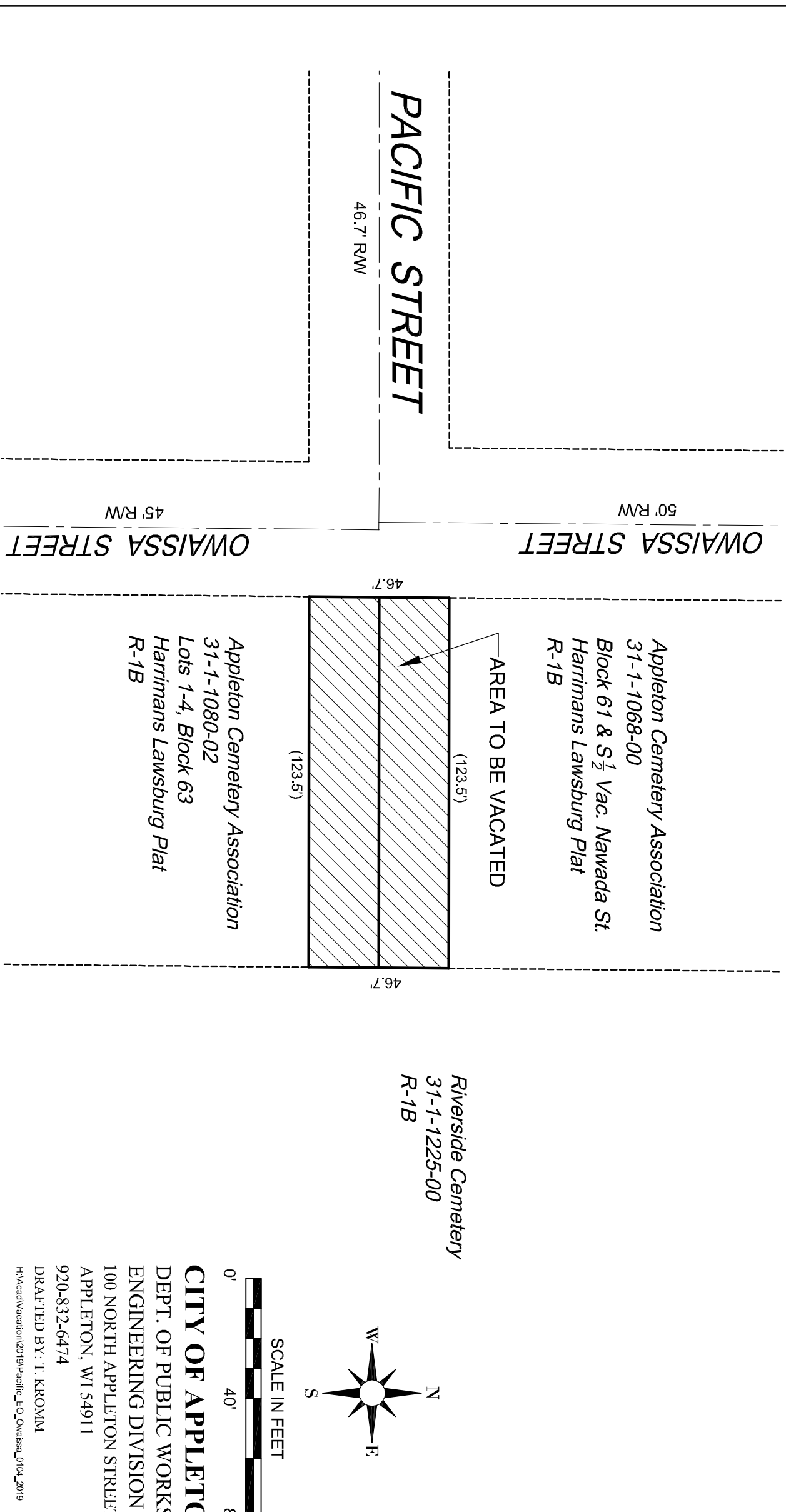
All that part of Pacific Street (f/k/a Brucke Street) described as follows: A strip of land 46.7 feet in width and 123.5 feet more or less in length, containing 5,767 square feet of land more or less, bounded on the West by the East line of Owaissa Street, bounded on the East by Riverside Cemetery, bounded on the North by Block 61 of **HARRIMAN'S LAWSBURG PLAT** and bounded on the South by Block 63 of **HARRIMAN'S LAWSBURG PLAT**, all according to the recorded Assessors Map of the City of Appleton, being located in Government Lot 2 lying North of the Fox River, Section 25, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin.

**COMMON DESCRIPTION:**

Riverside Cemetery entrance

# EXHIBIT

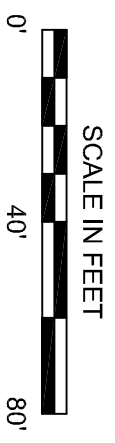
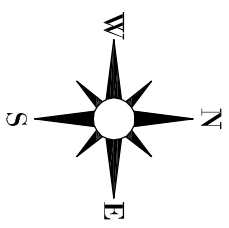
ALL THAT PART OF PACIFIC STREET (FKA BRUKE STREET) DESCRIBED AS FOLLOWS: A STRIP OF LAND 46.7 FEET IN WIDTH AND 123.5 FEET MORE OR LESS IN LENGTH, CONTAINING 5,767 SQUARE FEET OF LAND MORE OR LESS, BOUNDED ON THE WEST BY THE EAST LINE OF OWAISSA STREET, BOUNDED ON THE EAST BY RIVERSIDE CEMETERY, BOUNDED ON THE NORTH BY BLOCK 61 OF HARRIMAN'S LAWSBURG PLAT AND BOUNDED ON THE SOUTH BY BLOCK 63 OF HARRIMAN'S LAWSBURG PLAT. ALL ACCORDING TO THE RECORDED ASSESSORS MAP OF THE CITY OF APPLETON, BEING LOCATED IN GOVERNMENT LOT 2 LYING NORTH OF THE FOX RIVER, SECTION 25, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.



*Appleton Cemetery Association*  
 31-1-1068-00  
 Block 61 & S  $\frac{1}{2}$  Vac. Nawada St.  
 Harrimans Lawsburg Plat  
 R-1B

*Appleton Cemetery Association*  
 31-1-1080-02  
 Lots 1-4, Block 63  
 Harrimans Lawsburg Plat  
 R-1B

*Riverside Cemetery*  
 31-1-1225-00  
 R-1B



**CITY OF APPLETON**  
 DEPT. OF PUBLIC WORKS  
 ENGINEERING DIVISION  
 100 NORTH APPLETON STREET  
 APPLETON, WI 54911  
 920-832-6474

DRAFTED BY: T. KROMM  
 H:\Acad\Vacation\2019\Pacific\_EO\_Owaissa\_0104\_2019

Notice is further given that a hearing of said resolution will be held at a regular meeting of the Common Council to be held at 7:00 p.m. or as soon thereafter as can be heard, on Wednesday, April 3, 2019, in the Council Chambers at the City Hall in said City of Appleton.

By Order of the Common Council.

February 20, 2019

KAMI LYNCH  
City Clerk

RUN: February 23, 2019

March 2, 2019

March 9, 2019

**REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES WILL BE MADE  
UPON REQUEST AND IF FEASIBLE.**

**FINAL RESOLUTION**

**WHEREAS**, the public interest requires that a portion of East Pacific Street, east of North Owaissa Street, that has not previously been vacated, be vacated and discontinued; and

**WHEREAS**, notice was given when and where the resolution would be acted on, as required by law; and

**WHEREAS**, hearing was had on said Resolution on the 3<sup>rd</sup> day of April, 2019, at City Hall, in and for the City of Appleton, Wisconsin.

**BE IT RESOLVED**, that the Common Council of the City of Appleton, Wisconsin, hereby determines that the public interest requires that:

**LEGAL DESCRIPTION:**

All that part of Pacific Street (fka Brucke Street) described as follows: A strip of land 46.7 feet in width and 123.5 feet more or less in length, containing 5,767 square feet of land more or less, bounded on the West by the East line of Owaissa Street, bounded on the East by Riverside Cemetery, bounded on the North by Block 61 of **HARRIMAN'S LAWSBURG PLAT** and bounded on the South by Block 63 of **HARRIMAN'S LAWSBURG PLAT**, all according to the recorded Assessors Map of the City of Appleton, being located in Government Lot 2 lying North of the Fox River, Section 25, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin.  
See also attached Exhibit "A" for illustration.

**COMMON DESCRIPTION:**

East Pacific Street, east of North Owaissa Street (Riverside Cemetery entrance)

**FURTHER RESOLVED**, that the City Clerk of the City of Appleton be authorized and directed to give notice required by §66.1003 of the Wisconsin Statutes.

**FURTHER RESOLVED**, that according to §66.1005, Wisconsin Statutes, upon vacation and discontinuance of said portion of East Pacific Street, title to the above-described area shall belong to the adjoining property owners of this vacated street area and shall acquire an ownership interest in the entire area being vacated (as deemed necessary).



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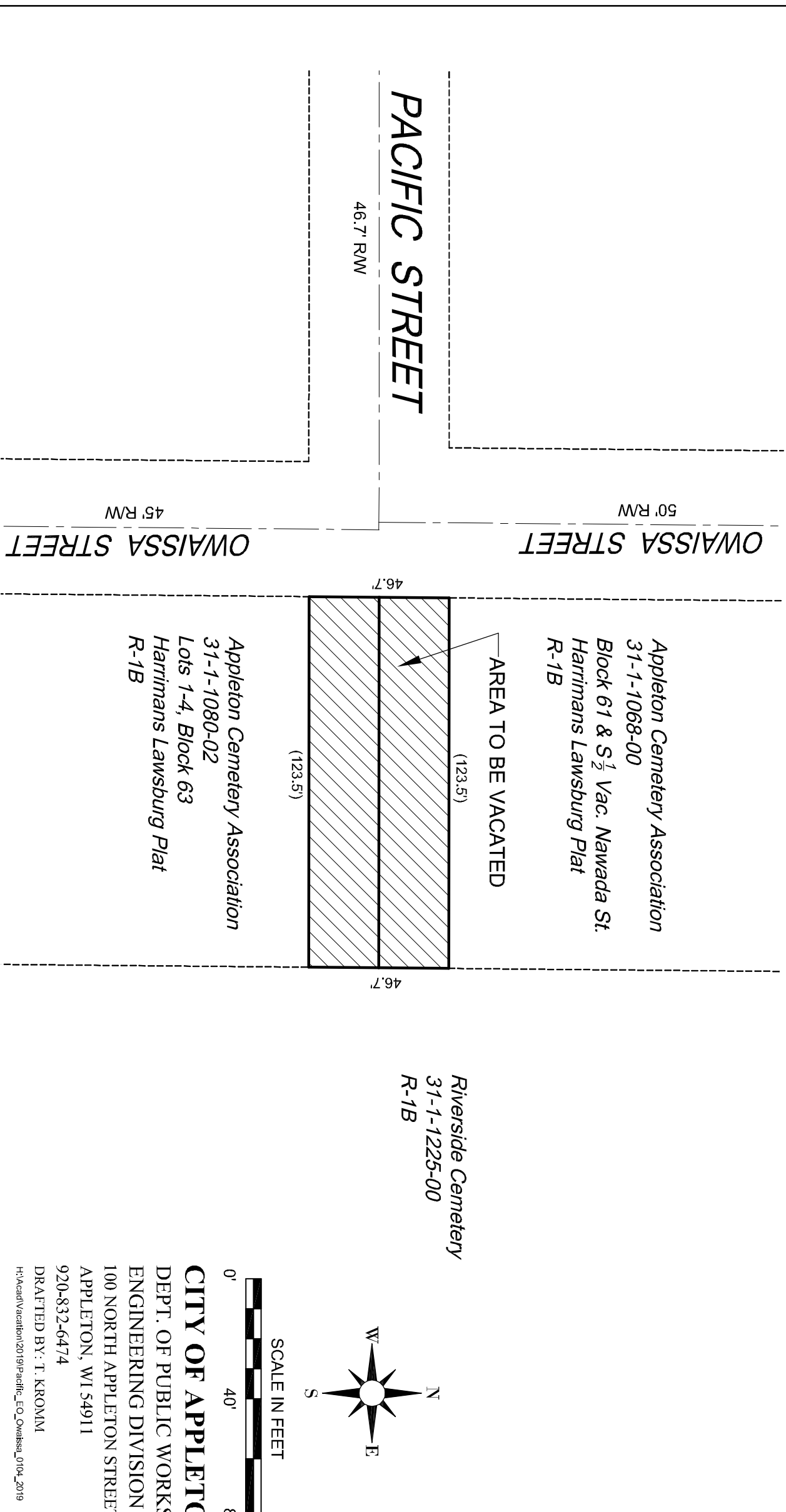
Date

---

Christopher W. Croatt, Chair  
Municipal Services Committee  
City Law: A18-0936

# EXHIBIT

ALL THAT PART OF PACIFIC STREET (FKA BRUKE STREET) DESCRIBED AS FOLLOWS: A STRIP OF LAND 46.7 FEET IN WIDTH AND 123.5 FEET MORE OR LESS IN LENGTH, CONTAINING 5,767 SQUARE FEET OF LAND MORE OR LESS, BOUNDED ON THE WEST BY THE EAST LINE OF OWAISSA STREET, BOUNDED ON THE EAST BY RIVERSIDE CEMETERY, BOUNDED ON THE NORTH BY BLOCK 61 OF HARRIMAN'S LAWSBURG PLAT AND BOUNDED ON THE SOUTH BY BLOCK 63 OF HARRIMAN'S LAWSBURG PLAT. ALL ACCORDING TO THE RECORDED ASSESSORS MAP OF THE CITY OF APPLETON, BEING LOCATED IN GOVERNMENT LOT 2 LYING NORTH OF THE FOX RIVER, SECTION 25, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.



**PACIFIC STREET**

46.7' RMW

50' RMW

**OWAISSA STREET**

45' RMW

**OWAISSA STREET**

46.7'

AREA TO BE VACATED

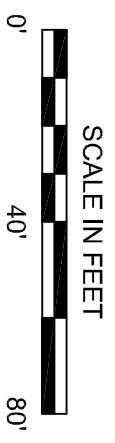
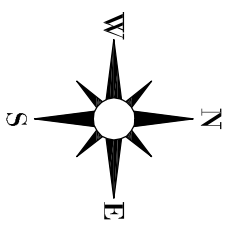
(123.5')

(123.5')

*Appleton Cemetery Association*  
 31-1-1080-02  
 Lots 1-4, Block 63  
 Harrimans Lawsburg Plat  
 R-1B

46.7'

*Riverside Cemetery*  
 31-1-1225-00  
 R-1B



**CITY OF APPLETON**  
 DEPT. OF PUBLIC WORKS  
 ENGINEERING DIVISION  
 100 NORTH APPLETON STREET  
 APPLETON, WI 54911  
 920-832-6474

DRAFTED BY: T. KROMM  
 H:\Acad\Vacation\2019\Pacific\_EO\_Owaissa\_0104\_2019

## **INITIAL RESOLUTION**

**WHEREAS**, the public interest requires that a portion of East Kimball Street, west of South Allen Street, that has not previously been vacated, be vacated and discontinued,

**BE IT RESOLVED**, that the Common Council of the City of Appleton, Wisconsin, hereby determines that the public interest requires that a portion of East Kimball Street, City of Appleton, Outagamie County, Wisconsin, as hereinafter described, is hereby vacated and discontinued pursuant to §66.1003 of the Wisconsin Statutes.

### **LEGAL DESCRIPTION**

*All that part of Kimball Street lying between Block Ten (10) and Block D of the APPLETON PLAT (aka Second Ward Plat), all according to the recorded Assessor's Map of the City of Appleton, being located in the SE ¼ of the SW ¼ of Section 26, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin, containing 1,920 Square feet of land and being more fully described by:*

*Commencing at the Southeast corner of said Block 10 and being coincident with the Northwest corner of Allen Street and Kimball Street and being the point of beginning; Thence South 00°57'34" East 32.00 feet coincident with the Southerly extension of the West line of Allen Street to the South line of Kimball Street;*

*Thence North 89°57'25" West 106.33 feet coincident with the South line of said Kimball Street;*

*Thence continue North 89°57'25" West 13.67 feet coincident with the South line of said Kimball Street;*

*Thence North 00°57'34" West 32.00 feet to the North line of Kimball Street;*

*Thence South 89°57'25" East 14.18 feet coincident with the North line of Kimball Street;*

*Thence South 00°02'58" East 32.00 feet to the South line of Kimball Street;*

*Thence South 89°57'25" East 60.00 feet coincident with the South line of Kimball Street;*

*Thence North 00°02'58" West 32.00 feet to the North line of Kimball Street;*

*Thence South 89°57'25" East 45.82 feet coincident with the North line of Kimball Street to the point of beginning.*

See also attached Exhibit "A" for illustration.

### **EASEMENTS**

The City of Appleton their heirs, successors and or assigns (Grantee) hereby retain an easement for any and all existing utilities and also any future utilities deemed necessary or desirable by Grantee within the vacated right of way, including but not limited to, storm sewer, drainage, sanitary sewer, watermain, gas, electric, cable and fiber- optic within the entire length and width of the above described right of way.

It is further agreed that this easement shall be a permanent easement.

It is further agreed that Grantee shall have the right to install, regrade, replace, relocate,

operate, maintain, resize and repair any and all of these utilities and their associated appurtenances. It is further agreed that after installing, regrading, replacing, relocating, operating, maintaining, resizing or repairing of these utilities and their associated appurtenances Grantee shall restore unimproved surfaces such as grass, gravel and dirt on said property, as closely as possible, to the condition previously existing. Grantee shall not be required to restore or compensate for any improvements or improved surfaces such as, but not limited to, curb and gutter, hard pavements, trees, shrubs and landscaping, disturbed as a result of the maintenance activities described herein. Buildings or any other type of permanent structure shall not be placed over Grantees' facilities or in, upon or over said easement area. This easement includes the right to operate all equipment deemed necessary by Grantee to perform said activities. Grantee agrees that it shall give timely notice to the Grantor of routine maintenance work.

**COMMON DESCRIPTION:**

A portion of East Kimball Street, west of South Allen Street

***FURTHER RESOLVED***, that the City Clerk of the City of Appleton be authorized and directed to give notice required by §66.1003 of the Wisconsin Statutes.

***FURTHER RESOLVED***, that according to §66.1005 of the Wisconsin Statutes, upon vacation and discontinuance of said portion of East Kimball Street, title to the above-described street shall belong to the adjoining property owners and shall acquire an ownership interest in the entire area being vacated as shown on the attached Exhibit Map.

---

Date  
City Law: A19-0178

---

Christopher W. Croatt

## Paula Vandehey

---

**To:** Natcha Jitmaiwong  
**Subject:** RE: Sidewalk cafes

From: Natcha Jitmaiwong <tasteofthai321@gmail.com>  
Sent: Wednesday, March 20, 2019 5:56 PM  
To: Paula Vandehey <Paula.Vandehey@Appleton.org>  
Subject: Re: Sidewalk cafes

My name is Natcha Jitmaiwong and I would like a street occupancy permit for tables and chairs within the College Avenue beautification strip located at 321 E. College Avenue.

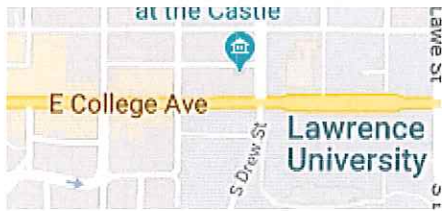
Natcha Jitmaiwong  
Owner  
321 E. College Ave.  
Appleton WI 54911

Google Maps 321



Image capture: Aug 2018 © 2019 Google

Street View



Proposed table/chair area

## Paula Vandehey

---

**From:** Karen Harkness  
**Sent:** Thursday, March 7, 2019 5:12 PM  
**To:** Linda Garvey; Paula Vandehey  
**Cc:** Hannah F  
**Subject:** Re: Superior Street Skywalk Signage

Thanks Linda.

I've copied Paula on this email she she oversees this process.

K  
Sent from my iPhone

On Mar 7, 2019, at 6:09 PM, Linda Garvey <[lgarvey@appletonpvh.com](mailto:lgarvey@appletonpvh.com)> wrote:

Hi Karen,

I writing to verify that Red Lion Hotel Paper Valley is releasing the space on the Superior Street skywalk between the hotel and the Red ramp. We previously had a sign there but once we took that down, we decided not to add a new one in its place.

Thank you!

Linda Garvey | Hotel GM  
T 9207338000ext1660 | [lgarvey@appletonpvh.com](mailto:lgarvey@appletonpvh.com)

Red Lion Hotel Paper Valley  
333 W College Ave Appleton WI 54911 US  
[redlion.com](http://redlion.com) | [Facebook](#) | [Twitter](#)



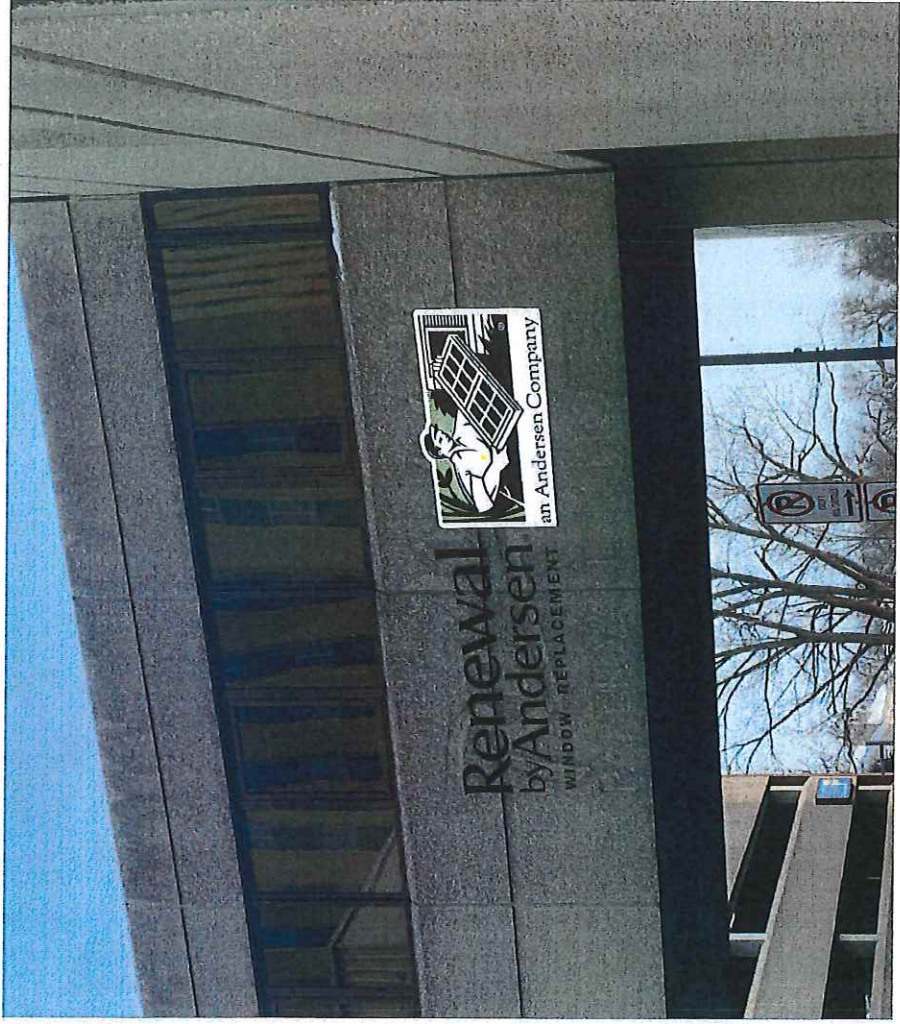
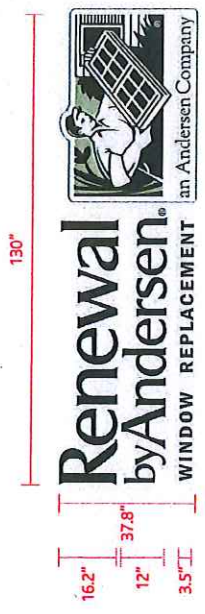
Company: Tundraland  
 Contact: Hannah  
 Project:  
 Date: 3.15.19

**FASTSIGNS**  
 Contact: Trevor  
 Designer: Laura Fuhs  
 File: Tundraland Renewal 2  
 Revision: 2

**PROJECT DESCRIPTION**

Scope:  
 Process: digital print  
 Media: 180  
 Laminate: 8520 matte  
 Substrate: 6mm polymetal  
 Surface:  
 S/S: \_\_\_\_\_ D/S: \_\_\_\_\_  
 Hardware:  
 Font(s):  
 Color(s):  
 Notes: Routed Letters

Quantity  
**1**



Client signature for approval: \_\_\_\_\_

Date: \_\_\_\_\_

**By signing this release, you are approving production of the work as specified on this document. Please examine all proofs carefully for accuracy. If changes are required, we will be happy to provide you a second proof free of charge. Thereafter, any further proofs will be billed at a \$10.00 minimum each.**

\*COLORS SHOWN ON THIS DOCUMENT ARE A CONCEPTUAL REPRESENTATION ONLY. IF YOU NEED TO SEE A SAMPLE OF THE ACTUAL COLOR BEFORE APPROVING THE PROOF, PLEASE REQUEST A PHYSICAL COLOR SAMPLE FROM YOUR SALES REPRESENTATIVE.

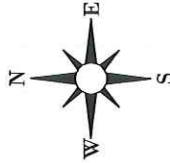
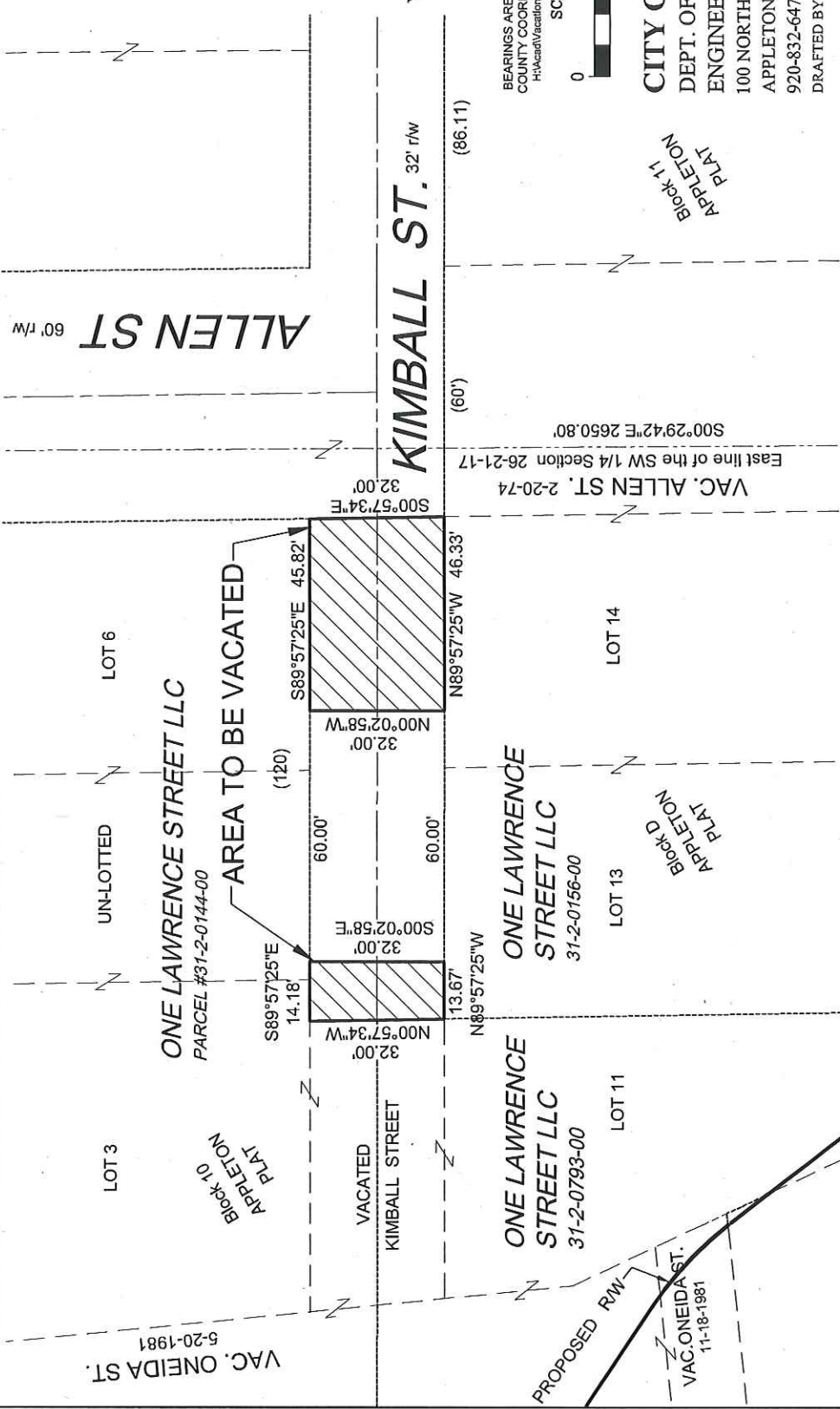
This rendering is the property of Fastsigns International, Inc. The borrower agrees it shall not be reproduced, copied or disposed of directly or indirectly, nor used for any purpose without permission from Fastsigns International, Inc.

*This rendering is private & confidential*



# EXHIBIT "A"

PART OF KIMBALL STREET LYING BETWEEN BLOCK 10 AND BLOCK D, APPLETON PLAT, (AKA SECOND WARD PLAT), ALL ACCORDING TO THE RECORDED ASSESSOR'S MAP OF THE CITY OF APPLETON, BEING LOCATED IN THE SE 1/4 OF SECTION 26, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.



BEARINGS ARE REFERENCED TO WISCONSIN COUNTY COORDINATES: OUTAGAMIE COUNTY  
 H:\Acad/Vacation\2019\Kimball\_LWO\_Allen\_2012\_2019

SCALE IN FEET



**CITY OF APPLETON**  
 DEPT. OF PUBLIC WORKS  
 ENGINEERING DIVISION  
 100 NORTH APPLETON STREET  
 APPLETON, WI 54911  
 920-832-6474  
 DRAFTED BY: T. KROMM



Kimball Street (West of Allen Street)  
Street Vacation  
Aerial Map

2-0144

2-0152

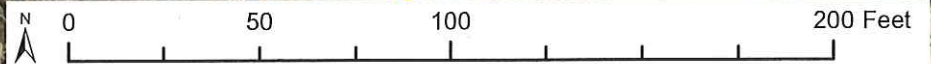
Subject Area

E KIMBALL ST

2-0793

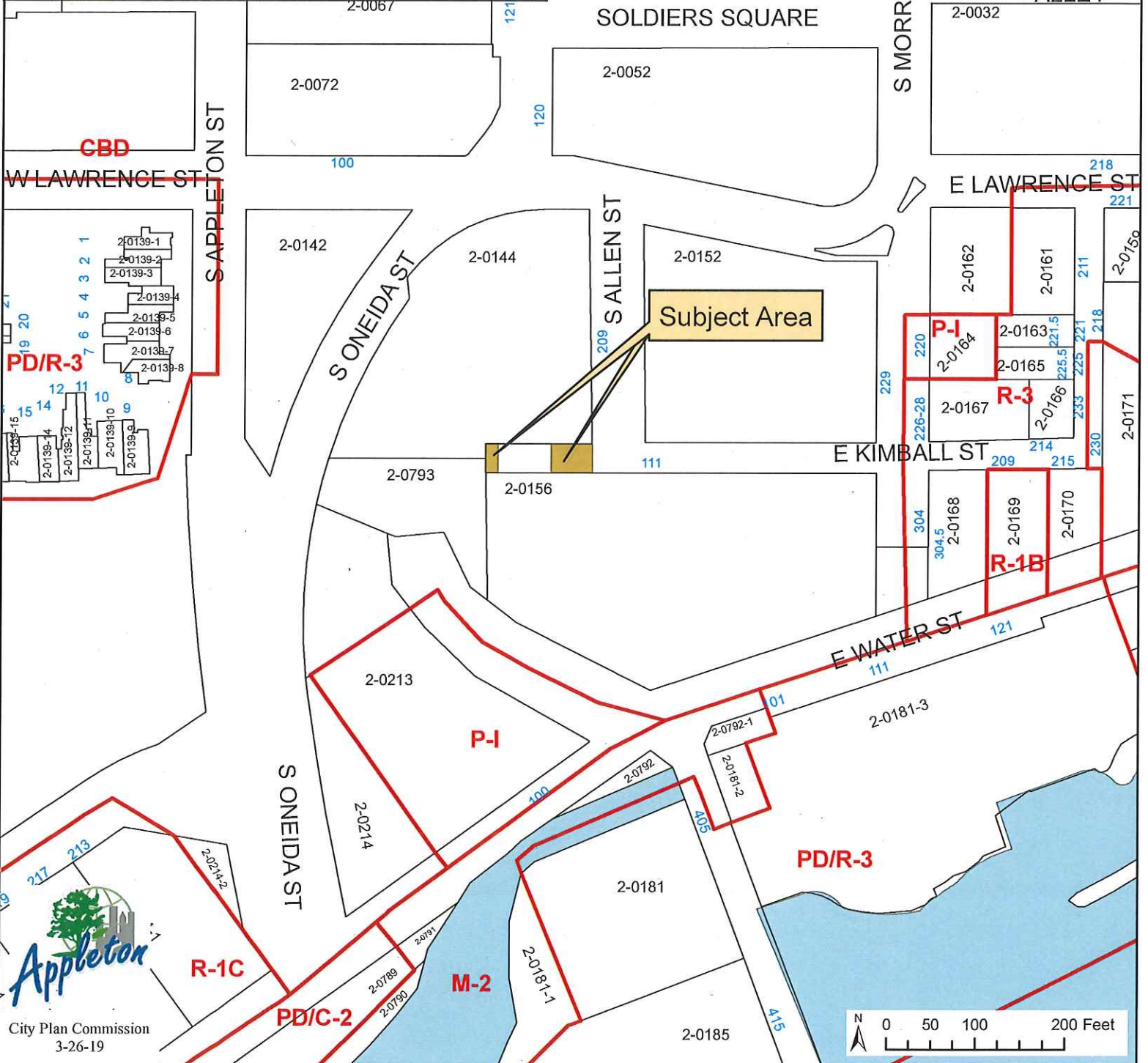
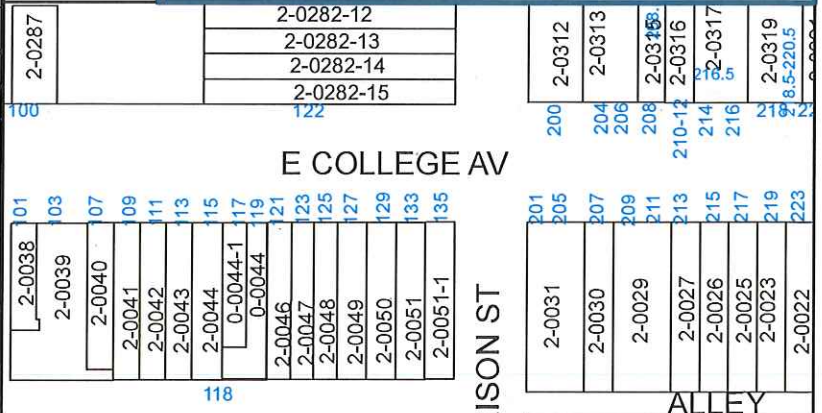
2-0156

ROCKY BLEIER RUN





# Kimball Street (West of Allen Street) Street Vacation Zoning Map



**#3-R-19**  
**Repealing the Truancy Ordinance**

March 20, 2019

Submitted By: Alderperson William J. Siebers, District 1

Referred To: Safety & Licensing Committee

Whereas, the City of Appleton has through the City Attorney's office and the Appleton Police Department, been a partner with the school district in addressing truancy issues and,

Whereas, the City's authority to deal with truancy issues is outlined in Section 10-42 of the City Code and is referenced by Wisconsin State Statute chapter 118, and at times is done by punitive means,

Whereas, the Honorable James Morrison – Chief Judge of the 8<sup>th</sup> Judicial District – in his letter dated January 3, 2019 to the Appleton Area School District administration, announcing that judges in the 8<sup>th</sup> Judicial District would no longer be a part of the truancy court, stated that preventing truancy is fundamentally the responsibility of educational officers and best handled by the school district and,

Whereas, the Appleton Area School District would retain the ability to issue truancy citations under state law where city ordinance Section 10-42 is repealed and,

Whereas, truants in a national student truancy survey cited boredom, loss of interest in school, irrelevant courses, suspensions, bad relationships with teachers, struggles academically, not having friends who are attending school regularly, seeing no reason for attending school, and feeling socially isolated in school for not attending classes and most educators believing that family problems cause chronic truancy and,

Whereas, the fact that the School District and Human Social Services can deal with these issues without punitive measures, which are asked to be carried out by the Police Department and City Attorney's office,

Therefore Be It Resolved, that City Ordinance Section 10-42, dealing with truancy be repealed.

## Kami L. Lynch

---

**From:** Todd L. Thomas  
**Sent:** Monday, April 1, 2019 1:32 PM  
**To:** Bob Baker; Cathy Spears; Christine Williams; Christopher Croatt; Curt Konetzke; Ed Baranowski; Joe Martin; Kathleen Plank; Keir Dvorachek; Kyle Lobner; Matthew Reed; Patti Coenen; Rachel Raasch; Vered Meltzer; William Siebers  
**Cc:** Kami L. Lynch; Tim Hanna; Darrin M. Glad; Mike Frisch  
**Subject:** Council Packet Amendment - Truancy Resolution  
**Attachments:** Truancy Resolution.pdf

Council Members;

Attached is a late addition to your council packets, this was speaking points from the Safety and Licensing Committee meeting regarding the Truancy Ordinance Resolution.

This is only being provided to give you the department's opinion on what the impact will be of approving or denying this resolution.

One point to clarify, when I speak of "criminalizing", it is in the context of juvenile law; a juvenile can't be charged with a "crime" for truancy, but a juvenile referral is done under state statute, and not a city ordinance, and is generally considered more severe.

Feel free to contact me with any questions or if you need any more information,

Thanks

Todd

**Todd L. Thomas**  
**Chief of Police**

**Appleton Police Department**  
**222 South Walnut Street**  
**Appleton, WI 54911**  
**920-832-5512**  
[Todd.thomas@appleton.org](mailto:Todd.thomas@appleton.org)

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This is a very complicated and important issue so I put together a document of our thoughts and will share it with the rest of the council and make sure it is in their packets for next week.

**We all know the impact of truancy on a child and the community.** Short term effects are increased delinquency and criminal behavior, and a lack of mental health or other services being provided to them because most of them don't have any other services outside of the school. And long term effects like poor physical and mental health, poverty, and a higher risk of addiction and incarceration.

**I know we all want the same thing:** We all have the same goal: that is to help struggling kids to be successful and engaged in school, their families engaged in their lives, breaking family cycles of educational failures, and keeping them out of the criminal justice system as much as possible.

**But this resolution will actually do more harm than good, and will do the opposite of what I think is intended, our strong recommendation is to not approve this resolution.**

There is currently a task force put together by the SD that is reviewing their processes and programs, and will be making advisory recommendations on truancy abatement. That group includes parents, students, and a police department representative. They should be allowed to develop a plan based on unbiased data and best practices, before any decisions are made.

**One of our questions is, what problem are we trying to solve with this change?**

If it is to “decriminalize” truancy and contributing to truancy – in an effort to keep kids out of the criminal justice system, it doesn't do that. It is the law in WI, that doesn't change. In fact, if this resolution passes it will eliminate one of the lowest levels of sanctions we have available, a ticket, that we use to try and engage parents and kids, and replaces it with a criminal referral to circuit court or a juvenile intake referral.

This is destructive in two ways:

#1 it accelerates them into the CJ system: and #2 It would then take weeks and even months for a student's attendance issue to be addressed. The referrals will sit in a stack in an already overworked intake worker or assistant district attorneys desk, and the student will continue to be truant.

One of my more experienced SRO's told me that before we had truancy citation options the referrals went in front of a court commissioner. In her words, "this was unhelpful because the goal was to get their children in school now, not four months down the road." The data has shown that the longer a child is out of school, the harder it is to get them back connected again.

**One of the other comments that have been made is that this is a SD issue:** I would hope that we have learned that collaboration and multi-disciplinary approaches are the best way to solve complex social and criminal problems. Truancy is not a school district issue, that philosophy is outdated and has failed: truancy is a community issue that needs a multi-disciplinary approach to it.

That is what we have done in Appleton, through partnerships with the SD, Boys and Girls Club, social workers and mental health providers, non-profits and faith based organizations, and the courts.

Truancy is frequently a result of other problems, and the cause of many additional problems including involvement in the criminal justice system. And like other issues involving children there are a lot of contributing factors to truancy: school factors, home and community factors, and personal factors. And there is not only one group responsible to solve it, we all need to be involved.

Another argument I have heard from a community member who is advocating for this change is that if a child doesn't want to go to school we shouldn't make them; they are just disrupting it for the rest of the students. We have heard those comments before, our answer to that is we don't have any throw away kids in this community, we need them all to succeed.

**Why do we need this tool in our tool belt? It comes down to Rewards and timely Consequences**

What we know, based on data and reputable studies, is that we need a wide range of options to address truancy and keep our kids engaged in school, which includes sanctions and consequences. (National Center for School Engagement, NEA, Office of Juvenile Justice Delinquency Prevention).

And rewards alone do not always work, much like the rest of our society, there is always a small group that needs consequences to conform. Almost all the studies I have seen going back almost 15 years that I've been involved in this specific area of truancy abatement, talk about the importance of rewards and consequences – some call it the carrot and the stick. The focus has been and should always be on

positive reinforcement and connecting with kids, but there are always some students, and frequently parents, who are not motivated until they know they know there may be a court consequence.

Since Truancy Court was halted we stopped issuing citations while we are in this review period, to allow the SD Task Force to develop their new process. We have already noticed an increase in truancy.

An SRO in a high school told me this just this week, “ we are already seeing what the consequences of not having Truancy enforced are. Just in the last week the Dean of Students and Associate Principal...were commenting on how the number of pages of students with Truancy issues has multiplied a couple times over.” “If this ordinance is eliminated we will continue to see a rapid decline in school attendance.”

An elementary school SRO shared with me the following, “Since we have stopped enforcing the truancy/contributing to truancy ordinances and statues, I have seen an uptick in the lack of compliance with the law. I have also heard, on many occasions, parents state that they are not making their kids go to school anymore because there are no consequences for them being truant.”

A school administrator told me today, they have high school students who are brazenly telling staff members that they aren't going to class because they know they are not enforcing truancy anymore.

That's the reality and the consequence of eliminating what we had in place with nothing in place to fill the void. That is the path we are on now, and it only took a couple months.

**So how had we been doing? How do we compare to others and is the perception of the problem bigger than the problem?**

The most recent data from WI Dept. of Public Instruction website and performance report is from 2015-16 school year. Looking at the top ten school districts in the state (not including Milwaukee) Appleton, Eau Claire, GB, Sheboygan, Janesville, etc.. The average Truancy Rate is 10.2% - Appleton's is less than half that, 4.8% ...the lowest in the top 10 and significantly lower than the rest. The majority are 10-14%, and ours has gone down since we have had the systems in place that we had and is the only one under 5%. That should be recognized, we are doing things that are making our rates significantly better than our peers.



**What we do, and how the citation is used, is very misunderstood. There are many steps that are followed before a citation is issued.**

The SD, SRO, and school social workers are all involved at various times with the student and family when a student is identified as being truant. Frequently that means home visits and repeated calls or meetings with the student and their parent.

**Before citations are issued a Truancy conference is held** with the student, parent, guidance counselor, and any special education case managers. They follow an agenda and checklist that asks about possible schedule changes, any IEP's, is there a social worker, is there a mental health plan, do they have medical or aoda concerns, are they involved in the Boys and Girls Club TRAC program, do they have concerns with peers, do they have transportation concerns, housing concerns, child care concerns, or grade concerns.

So a perception that citations are issued frequently and randomly, and that we are not focusing on the root causes and trying to understand the issues, is absolutely false and is unfair to all those social workers, SRO's, mental health providers, and teachers who are working compassionately to help these children succeed.

We only issue around 100 citations a year for truancy violations, this for an enrollment of over 15,000 kids. And I am sure many of those are issued to multiple siblings in the same family. So the actual number of families is much less.

In 2015-16 there were 730 students who were habitually truant, we also know there were thousands of other days students were truant. What that means is it is very rare to issue a citation, even to those kids who are habitually truant. Only 100 citations, but over 700 kids who were habitally truant.

And when they are issued they are very frequently used as a tool and held over the head of the child or the parent. They reach an informal agreement with the SRO that they will vacate the ticket if the child can attend for so many days...so it is frequently used as positive re-enforcement for good behavior.

### **When it comes to the Accuracy of Information**

There is a lot of in accurate information out there now about truancy. What I would remind everyone of is that when we hear stories about truancy, you are only hearing one side because the other side isn't allowed to disclose what may or may not be true. There has been a lot of incomplete information, but we have no

recourse to address it or correct the narrative. It is unfortunate that opinions are being formed on inaccurate information.

I appreciate those that have been very vocal on the topic locally, but we must keep in mind that our paradigms and perspectives are shaped by our own experiences. If you only work in a certain area, whether that's social work or the law enforcement side, that is your perspective, we all need to keep that in mind.

That is why we should look to best practices - and all the best practices will tell you that you need some court consequences for that small number of students and their families. Not having that will guarantee more students dropping out and perpetuating that cycle in many of their families. It is a form of a safety net; to try and keep those kids that nothing else works for, back to school. To eliminate this option will guarantee a higher truancy rate and we know that leads to a higher propensity to become involved in the CJ system.

**Data takes the emotions out of decision making**, and with all the discussion locally on this topic I haven't seen a lot of data. I shared with you the data on truancy rates, lowest in the state for comparable school districts, and data on the number of citations we actually issue; a miniscule amount considering the number of students actually truant, and the actual checklist and process that is followed to identify all those other contributing factors affecting a child before a citation is issued.

Some other important DATA - When I became Chief in 2015 we rolled out a 5 pillar initiative to engage our strategic plan. One of the pillars was Youth Intervention and Mentoring: working on opportunity gaps, and clarifying the roles of the SRO in the schools to not criminalize behavior and promote a philosophy of delaying contact with the criminal justice system as long as possible, and only if needed. Since then our number of yearly juvenile arrests has gone from 984 to 549...in 2017 dropped 14.8%, 2018 dropped 8.2%...since 2015 dropped a total of 44%...that isn't an accident that is an intentional philosophy.

Summer of Service – around 70% of those students are there because they had truancy and habitual truancy citations and community service they were working off. We all know how successful that program has been, they would not have been in that program if they had not be facing consequences and sanctions.

This is an important tool used to address truancy and decisions on how to address it that shouldn't be rushed. It needs to be a process that is done deliberately, with

educational professionals, social workers, mental health providers, law enforcement, and families involved. That is being done now with the task force formed by the SD. We need to allow them to finish their work

# Original Alcohol Beverage Retail License Application

Submit to municipal clerk.

For the license period beginning \_\_\_\_\_ 20 19 ;  
 ending \_\_\_\_\_ JUN 30 20 \_\_\_\_\_

TO THE GOVERNING BODY of the:  Town of  
 Village of } Appleton  
 City of

County of Outagamie Aldermanic Dist. No. \_\_\_\_\_ (if required by ordinance)

1. The named  Individual  Partnership  Limited Liability Company  
 Corporation / Nonprofit Organization

hereby makes application for the alcohol beverage license(s) checked above.

2. Name (individual/partners give last name, first, middle; corporations/limited liability companies give registered name): **▶** \_\_\_\_\_  
CIRCLE COLLECTIVE LLC

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the name, title, and place of residence of each person.

Title	Name (Last, First, M.I.)	Home Address	Post Office & Zip Code
President/Member	<u>GETCHIUS, BRIANNE M</u>	<u>208 E CIRCLE STREET APPLETON WI</u>	<u>54911</u>
Vice President/Member	_____	_____	_____
Secretary/Member	_____	_____	_____
Treasurer/Member	_____	_____	_____
Agent	<u>Brianne Getchius</u>	_____	_____
Directors/Managers	_____	_____	_____

3. Trade Name **▶** PINOT'S PALETTE Business Phone Number \_\_\_\_\_  
 4. Address of Premises **▶** 226 E COLLEGE AVE Post Office & Zip Code **▶** APPLETON 54911

5. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? .....  Yes  No  
 6. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant? .....  Yes  No  
 7. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? .....  Yes  No  
 8. (a) Corporate/limited liability company applicants only: Insert state \_\_\_\_\_ and date \_\_\_\_\_ of registration.  
 (b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? .....  Yes  No  
 (c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? .....  Yes  No  
 (NOTE: All applicants explain fully on reverse side of this form every YES answer in sections 5, 6, 7 and 8 above.)

9. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) 2800 sq ft 2 room art studio

10. Legal description (omit if street address is given above): \_\_\_\_\_  
 11. (a) Was this premises licensed for the sale of liquor or beer during the past license year? .....  Yes  No  
 (b) If yes, under what name was license issued? AMY DUFFEY / ARTFUL EXPRESSIONS LLC  
 12. Does the applicant understand they must register as a Retail Beverage Alcohol Dealer with the federal government, Alcohol and Tobacco Tax and Trade Bureau (TTB) by filing (TTB form 5630.5d) before beginning business? [phone 1-877-882-3277]. .....  Yes  No  
 13. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776]. .....  Yes  No  
 14. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? . . .  Yes  No

**READ CAREFULLY BEFORE SIGNING:** Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000. Signer agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants, or one member of a partnership applicant must sign; one corporate officer, one member/manager of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

Brianne Getchius  
 (Officer of Corporation / Member / Manager of Limited Liability Company / Partner / Individual)

## TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk	Date reported to council / board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	

Applicant's WI Seller's Permit No. / FEIN Number	
LICENSE REQUESTED ▶	
TYPE	FEE
<input type="checkbox"/> Class A beer	\$
<input checked="" type="checkbox"/> Class B beer	\$ <u>100-</u>
<input checked="" type="checkbox"/> Class C wine	\$ <u>100-</u>
<input type="checkbox"/> Class A liquor	\$
<input type="checkbox"/> Class A liquor (cider only)	\$ N/A
<input type="checkbox"/> Class B liquor	\$
<input type="checkbox"/> Reserve Class B liquor	\$
<input type="checkbox"/> Class B (wine only) winery	\$
Publication fee	\$ <u>27</u>
<b>TOTAL FEE</b>	<b>\$ <u>227-</u></b>



Name: Amy L Duffey

Address: W 6310 Rocky Mountain Drive

City, State, Zip: Greenville WI 54942

7. What was the previous name and nature of the business operating at this location?

Same name, and same nature of business as current

8. Are alcohol sales an existing use in this building? Yes X No \_\_\_\_\_  
If no, When did the operation cease? \_\_\_\_\_ months ago.

9. Are alcohol sales a new use in this building? Yes \_\_\_\_\_ No X \_\_\_\_\_  
If yes, please contact the Community Development Department at 832-6468 to obtain a Special Use Permit.

10. Is your primary business restaurant? Yes \_\_\_\_\_ No X \_\_\_\_\_

11. Seating capacity: Inside 64  
Outside \_\_\_\_\_

12. Operating hours: Varies based on class schedule

13. Number of floor personnel 1 Number of door checkers \_\_\_\_\_

14. In general, state the size, design and type of the proposed establishment and the operational details.

2800 square feet, 2 room art studio offering

art education classes to the public and for private events.

Offering wine and beer sales on premises only.

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Date 3/13/19

Signature 

*Reasonable accommodations for persons with disabilities will be made upon request and if feasible.*

**SCHEDULE FOR APPOINTMENT OF AGENT BY CORPORATION/NONPROFIT ORGANIZATION OR LIMITED LIABILITY COMPANY**

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by the officer(s) of the corporation/organization or members/managers of a limited liability company and the recommendation made by the proper local official.

To the governing body of:  Town  Village of Appleton County of Outagamie  
 City

The undersigned duly authorized officer(s)/members/managers of Bark Entertainment LLC  
*(registered name of corporation/organization or limited liability company)*

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as Skyline Comedy Club  
*(trade name)*

located at 1004 S. Olde Oneida St Suite Three

appoints Bridget Friel  
*(name of appointed agent)*  
2211 N. Appleton St Appleton, WI 54915  
*(home address of appointed agent)*

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes  No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course?  Yes  No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 2 Years

Place of residence last year Appleton, WI

For: BARK Entertainment LLC  
*(name of corporation/organization/limited liability company)*

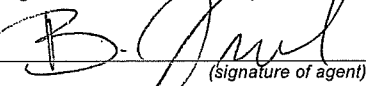
By:   
*(signature of Officer/Member/Manager)*

And: \_\_\_\_\_  
*(signature of Officer/Member/Manager)*

**ACCEPTANCE BY AGENT**

I, Bridget Friel, hereby accept this appointment as agent for the  
*(print/type agent's name)*

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

 3/12/19 Agent's age \_\_\_\_\_  
*(signature of agent)* *(date)*  
2211 N. Appleton St Appleton, WI 54915 Date of birth \_\_\_\_\_  
*(home address of agent)*

**APPROVAL OF AGENT BY MUNICIPAL AUTHORITY  
(Clerk cannot sign on behalf of Municipal Official)**

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on \_\_\_\_\_ by \_\_\_\_\_ Title \_\_\_\_\_  
*(date)* *(signature of proper local official)* *(town chair, village president, police chief)*



# Auxiliary Questionnaire Alcohol Beverage License Application

Submit to municipal clerk.

Individual's Full Name (please print) (last name) <u>Friel</u>		(first name) <u>Bricket</u>		(middle name) <u>L</u>	
Home Address (street/route) <u>2211 N. Appleton St</u>		Post Office	City <u>Appleton</u>	State <u>WI</u>	Zip Code <u>54911</u>
Home Phone Number <u>(406) 370-6311</u>		Age <u>24</u>	Date of Birth <u>8/14/94</u>	Place of Birth <u>Hancock, MI</u>	

The above named individual provides the following information as a person who is (check one):

- Applying for an alcohol beverage license as an **individual**.
- A member of a **partnership** which is making application for an alcohol beverage license.
- Manager of Skyline Comedy Club  
(Officer / Director / Member / Manager / Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)
- which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

- How long have you continuously resided in Wisconsin prior to this date? 1.5 years
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality?  Yes  No  
 If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?  Yes  No  
 If yes, describe status of charges pending.
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?  Yes  No  
 If yes, identify. \_\_\_\_\_  
(Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin?  Yes  No  
 If yes, identify. \_\_\_\_\_  
(Name of Wholesale Licensee or Permittee) (Address By City and County)
- Named individual must list in chronological order last two employers.

Employer's Name	Employer's Address	Employed From	To
<u>Skyline Comedy Club</u>	<u>1004 S Old Oneida St.</u>	<u>Oct. 2017</u>	<u>current</u>
<u>Elass Nickel Pizza Co.</u>	<u>2120 W. College Ave</u>	<u>Aug 2017</u>	<u>Nov. 2018</u>

**READ CAREFULLY BEFORE SIGNING:** Under penalty provided by law, the undersigned states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. The signer agrees that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000.

B. Friel  
(Signature of Named Individual)

**SCHEDULE FOR APPOINTMENT OF AGENT BY CORPORATION/NONPROFIT ORGANIZATION OR LIMITED LIABILITY COMPANY**

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by the officer(s) of the corporation/organization or members/managers of a limited liability company and the recommendation made by the proper local official.

To the governing body of:  Town  Village  City of Appleton County of Outagamie

The undersigned duly authorized officer(s)/members/managers of Lawrence University of Wisconsin  
(registered name of corporation/organization or limited liability company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as THE VIKING ROOM  
(trade name)

located at 615 E. College Ave Appleton, WI 54911

appoints GREGORY L. GRIFFIN  
(name of appointed agent)

522 N. Union St. Appleton, WI 54911  
(home address of appointed agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes  No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course?  Yes  No but has completed  
How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 10.5 years

Place of residence last year 522 N. Union St. Appleton, WI 54911

For: Lawrence University of Wisconsin  
(name of corporation/organization/limited liability company)

By: [Signature]  
(signature of Officer/Member/Manager)

And: [Signature]  
(signature of Officer/Member/Manager)

**ACCEPTANCE BY AGENT**

I, GREGORY L. GRIFFIN  
(print/type agent's name), hereby accept this appointment as agent for the

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

[Signature] 3/6/19  
(signature of agent) (date)  
522 N. Union St. Appleton, WI 54911  
(home address of agent)

Agent's age           
Date of birth         

**APPROVAL OF AGENT BY MUNICIPAL AUTHORITY  
(Clerk cannot sign on behalf of Municipal Official)**

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on          by          Title           
(date) (signature of proper local official) (town chair, village president, police chief)

# Auxiliary Questionnaire Alcohol Beverage License Application

Submit to municipal clerk.

Individual's Full Name (please print) (last name) <u>Griffin</u>		(first name) <u>Gregory</u>		(middle name) <u>Laird</u>	
Home Address (street/route) <u>522 N. Union St.</u>		Post Office	City <u>Appleton</u>	State <u>WI</u>	Zip Code <u>54911</u>
Home Phone Number <u>319 389 1705</u>		Age <u>61</u>	Date of Birth <u>02/24/58</u>	Place of Birth <u>ELGIN, IL</u>	

The above named individual provides the following information as a person who is (check one):

- Applying for an alcohol beverage license as an **individual**.
- A member of a **partnership** which is making application for an alcohol beverage license.

Gregory L. Griffin of Lawrence University of WI  
(Officer / Director / Member / Manager / Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

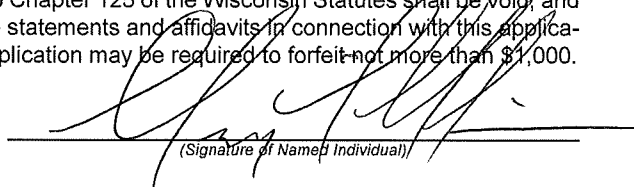
The above named individual provides the following information to the licensing authority:

- How long have you continuously resided in Wisconsin prior to this date? 10.5 years
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality?  Yes  No  
 If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?  Yes  No  
 If yes, describe status of charges pending.
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?  Yes  No  
 If yes, identify. \_\_\_\_\_  
(Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin?  Yes  No  
 If yes, identify. \_\_\_\_\_  
(Name of Wholesale Licensee or Permittee) (Address By City and County)

6. Named individual must list in chronological order last two employers.

Employer's Name <u>Coe College</u>	Employer's Address <u>1st Ave Cedar Rapids, IA</u>	Employed From <u>1999</u>	To <u>2008</u>
Employer's Name <u>Mount Senario College</u>	Employer's Address <u>Lady Smith, WI</u>	Employed From <u>1998</u>	To <u>1999</u>

**READ CAREFULLY BEFORE SIGNING:** Under penalty provided by law, the undersigned states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. The signer agrees that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000.

  
(Signature of Named Individual)

Operator's Licenses for 3/27/19 S & L

Approved

- |                           |  |
|---------------------------|--|
| 1. Christopher M. Carlson | 305 S Midpark Dr Appleton, WI 54915          |
| 2. Enya L. Carter         | 105 W 6 <sup>th</sup> St Kaukauna, WI 54130  |
| 3. Brandon A. Conn        | 2821 S Wheatfield Dr Appleton, WI 54915      |
| 4. Trevor W. Griesbach    | 707 Roosevelt St Kaukauna, WI 54130          |
| 5. Elena Hernandez        | 62 Five Oaks Dr Menasha, WI 54952            |
| 6. Sara V. Koopman        | 622 S Commercial St Neenah, WI 54956         |
| 7. Michelle M. Lieber     | 431 E Summer St Appleton, WI 54911           |
| 8. Lisa J. Lux            | 420 W Northland Ave #104 Appleton 54911      |
| 9. Jailene Rodriguez      | 711 E Boldt Way SPC1302 Appleton 54911       |
| 10. Joseph D. Roffey      | 1626 E Schaefer Cir Apt 4 Appleton 54915     |
| 11. Codie M. Schachner    | 1357 W 4 <sup>th</sup> St Kimberly, WI 54136 |
| 12. Sharma Saraswati      | 606 W Main St Hilbert, WI 54129              |
| 13. Natalie A. Tiede      | 56 De Pere St Menasha, WI 54952              |



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

**APPLETON FIRE DEPARTMENT  
700 N. DREW STREET  
APPLETON, WI 54911**

## **MEMORANDUM**

**To:** Alderperson Kathy Plank, Finance Committee  
Alderperson Kyle Lobner, Safety and Licensing Committee  
Members of the Common Council

**From:** Jeremy J. Hansen, Fire Chief

**Date:** March 6, 2019

**Re:** Authorization to Purchase an Aerial Ladder – Single Source

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The Appleton Fire Department (AFD) is requesting to purchase an aerial ladder from Fire Apparatus and Equipment (FAE), which is the local vendor for Pierce Manufacturing. The purchase would take place in January 2020 through the Central Equipment Agency's (CEA) replacement funding and it may take 6-9 months to construct the vehicle. Apparatus specifications are being developed by an internal committee comprised of fire department members of various ranks and a CEA mechanic. This process can take several months. This work is technical in nature and a single source vendor will have the knowledge and ability to customize the aerial ladder to meet the specific needs of the AFD.

Experience has proven purchasing fire trucks from Pierce Manufacturing has provided exceptional pricing. The AFD has garnished better pricing by single sourcing the vendor for multiple vehicle purchases. In addition to this request, the AFD will be purchasing an engine in 2020 which is the last vehicle in a four fire truck single source agreement. Additionally, we have another fire truck in the capital improvement plan in 2021.

The department has identified that standardizing our fleet will improve maintenance and consistency for personnel moving from station to station. While the fire department seeks to single source this purchase and potential future purchases, the final purchase recommendation will still come before the Safety and Licensing Committee and the Common Council for approval.

The AFD has a long-standing relationship with Pierce Manufacturing and has seen the innovation, cooperation, improved pricing and their direct involvement in the growth of our City. When the department encounters issues with a fire truck, Pierce Manufacturing is extremely responsive to our needs, including taking parts off the assembly line to assist us with keeping our trucks in service. Historically, Pierce Manufacturing has supported many community-wide initiatives, including the City of Appleton Flag Day parade. Hundreds of employees working for Pierce Manufacturing live in the City of Appleton and our surrounding communities. For all these reasons, the AFD seeks authorization to single source the future purchase of our aerial ladder with FAE, our local Pierce Manufacturing vendor.

Please feel free to contact me with any questions.

*"Appleton Fire Department....serving with P.R.I.D.E."*



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Public Hearing Date:** March 26, 2019

**Common Council Meeting Date:** April 3, 2019

**Item:** Special Use Permit #3-19 for restaurant with alcohol sales and service

**Case Manager:** Don Harp

### GENERAL INFORMATION

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**Owner/Applicant:** Noor Baha, LLC / Rose Villanueva Salinas, Garden View Restaurant

**Address/Parcel #:** 216 East College Avenue (Tax Id #31-2-0317-00)

**Petitioner's Request:** The applicant is requesting a Special Use Permit for alcohol sales and service in conjunction with an existing restaurant.

### BACKGROUND

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The building was built in 1890 and has been utilized as an active part of the downtown area. The Queen Bee previously operated in this building. On April 2, 2003, Special Use Permit #10-00 to allow the sale of alcohol expired for the Queen Bee Restaurant because the sales of alcohol had been discontinued for more than 8 months between 2001-2002.

On February 6, 2019, the Common Council approved Class "B" Beer and "Class C" Wine application for the Garden View Restaurant.

### STAFF ANALYSIS

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**Project Summary:** Garden View Restaurant has operated within the subject building since October 2018. The applicant proposes to serve alcohol within the existing building to include the entire first floor, which totals approximately 3,000 square feet.

**Existing Site Conditions:** The existing mixed-use building totals approximately 8,280 square feet, including the existing restaurant and retail space on the first floor, and four dwelling units on the second floor.

**Outdoor Alcohol Consumption Area:** No outdoor alcohol sales and consumption is requested as part of this application for a Special Use Permit.

**Operational Information:** A plan of operation is attached to the staff report.

**Special Use Permit #3-19**  
**March 26, 2019**  
**Page 2**

**Zoning Ordinance Requirements:** The subject property has a zoning designation of CBD Central Business District. Per Section 23-114(e) of the Municipal Code, a restaurant with alcohol sales and service requires a Special Use Permit in the CBD District. In order to permit alcohol sales and service in conjunction with a restaurant, the Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds (2/3) vote of the Common Council is required for approval.

**Surrounding Zoning and Land Uses:** The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally commercial and institutional in nature.

**North:** CBD Central Business District. The adjacent land use to the north is currently an office use.

**South:** CBD Central Business District. The adjacent land uses to the south are currently a mix of commercial uses and residential uses (second floor apartments), including two taverns.

**East:** CBD Central Business District. The adjacent land uses to the east are currently a mix of commercial uses and residential uses (second floor apartments).

**West:** CBD Central Business District. The adjacent land uses to the west are currently a mix of commercial uses and residential uses (second floor apartments).

**Appleton Comprehensive Plan 2010-2030:** Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Central Business District designation shown on the City's *Comprehensive Plan 2010-2030* Future Land Use Map. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

*Goal 1 – Community Growth*

*Appleton will continue to provide opportunities for residential, commercial, and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods, and greenfield development sites at the City's edge.*

*Goal 8 – Economic Development*

*Appleton will pursue economic development that retains and attracts talented people, brings good jobs to the area, and supports the vitality of its industrial areas, downtown, and neighborhood business districts.*

*OBJECTIVE 9.4 Economic Development:*

*Ensure the continued vitality of downtown and the City's neighborhood commercial districts.*

*Chapter 14 Downtown Plan, Initiative 4 Downtown Development and Business Retention:*

*Strategy 4.8 – Support private sector efforts to redevelop and invest in downtown.*

**Finding of Fact:** Prior to the granting of any Special Use Permit, the City Plan Commission may recommend and the Common Council may place such conditions and restrictions upon the establishment, location, construction, maintenance and method or hours of operation of the special use as is deemed necessary for the protection of the public interest and to secure compliance with the standards specified in 23-66 (e) (1-6). This request was reviewed in accordance with the standards for granting a Special Use Permit under 23-66 (e) (1-6), which were found in the affirmative.

**Technical Review Group (TRG) Report:** This item was discussed at the March 5, 2019 Technical Review Group meeting. No negative comments were received from participating departments.

### **RECOMMENDATION**

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Staff recommends, based on the above, that Special Use Permit #3-19 for a restaurant with alcohol sales and service at 216 East College Avenue (Tax Id #31-2-0317-00), as shown on the attached maps and per attached plan of operation, along with the attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.
2. Compliance with the plan of operation is required at all times. Changes to the plan of operation shall be submitted to the Community and Economic Development Department for review and approval.
3. Any deviations from the approved Development Plan may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance.
4. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.



## RESOLUTION

### CITY OF APPLETON RESOLUTION APPROVING SPECIAL USE PERMIT #3-19

**WHEREAS**, Rose Villanueva Salinas, owner of Garden View Restaurant has applied for a Special Use Permit for a restaurant with alcohol sales located at 216 East College Avenue, and also identified as Parcel Number 31-2-0317-00; and

**WHEREAS**, the location for the proposed restaurant with alcohol sales and service is located in the CBD Central Business District and the proposed use is permitted by special use within this zoning district; and

**WHEREAS**, the City of Appleton Plan Commission held a public hearing on March 26, 2019, on Special Use Permit #3-19 at which all those wishing to be heard were allowed to speak or present written comments, and other materials presented at the public hearing; and

**WHEREAS**, the City of Appleton Plan Commission has considered the application, the staff reports, oral and written, the Comprehensive Plan and zoning on the subject property, the testimony, written comments, and other materials presented at the public hearing; and

**WHEREAS**, the City of Appleton Plan Commission reviewed the standards for granting a Special Use Permit under Sections 23-66(e)(1-6) and 23-66(h)(6) of the Municipal Code, and forwarded Special Use Permit #3-19 to the City of Appleton Common Council with a favorable or not favorable (CIRCLE ONE) recommendation; and

**WHEREAS**, the City of Appleton Common Council has reviewed the report and recommendation of the City of Appleton Plan Commission at their meeting on \_\_\_\_\_, 2019 and found it to be acceptable.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Appleton Common Council approves Special Use Permit #3-19 for a restaurant with alcohol sales and service located at 216 East College Avenue, also identified as Parcel Number 31-2-0317-00 and orders as follows:

#### CONDITIONS OF SPECIAL USE PERMIT #3-19

1. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.
2. Compliance with the plan of operation is required at all times. Changes to the plan of operation shall be submitted to the Community and Economic Development Department for review and approval.
3. Any deviations from the approved Development Plan may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance.

4. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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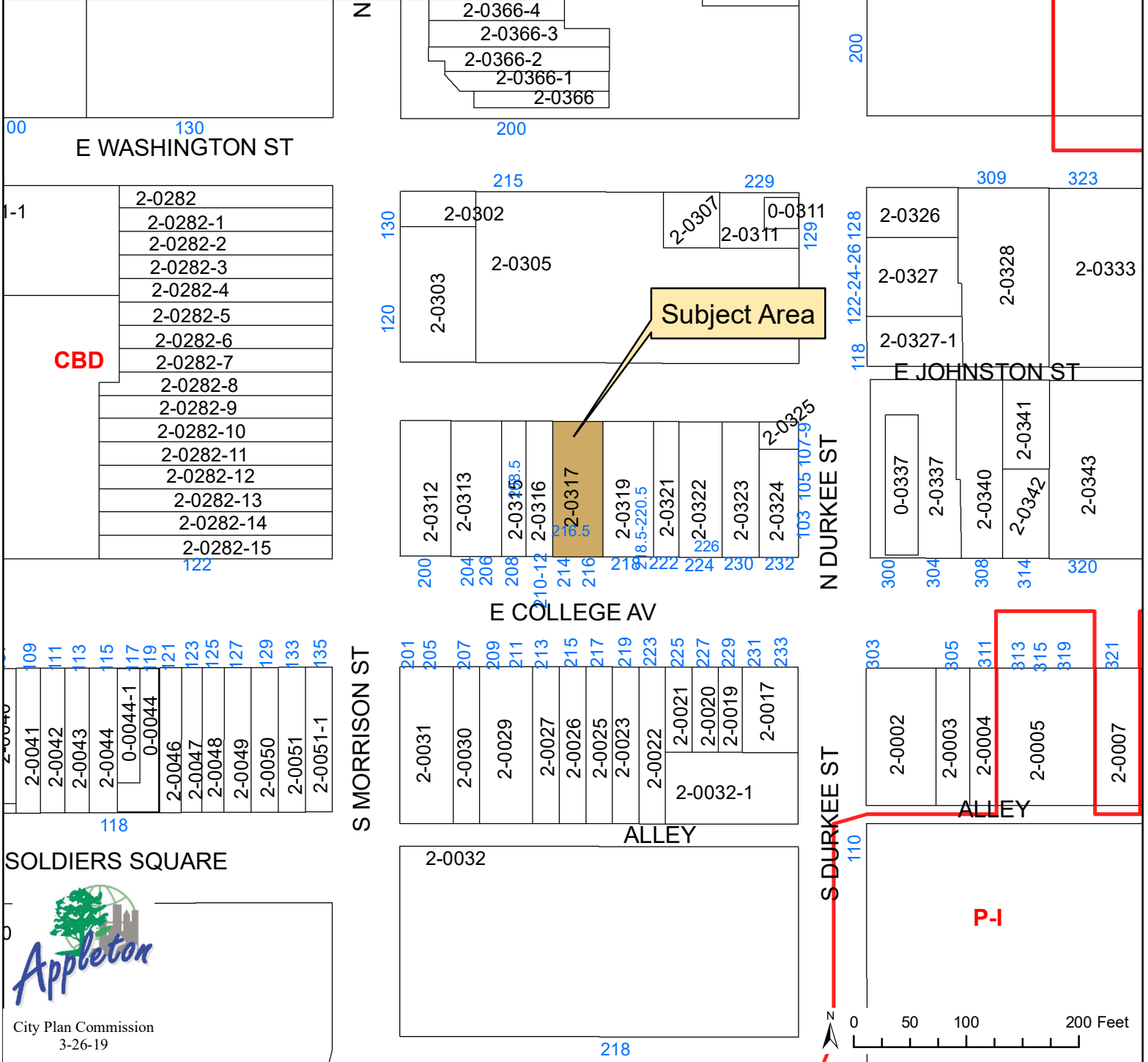
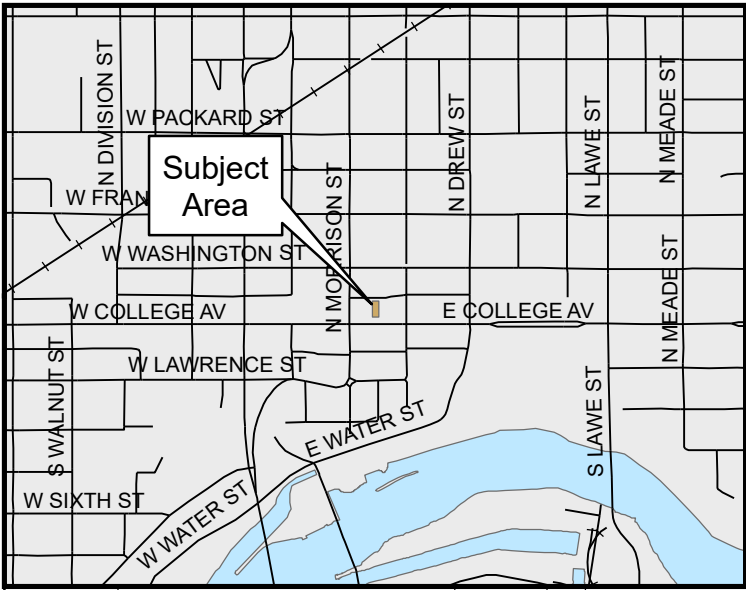
Timothy M. Hanna, Mayor

ATTEST:

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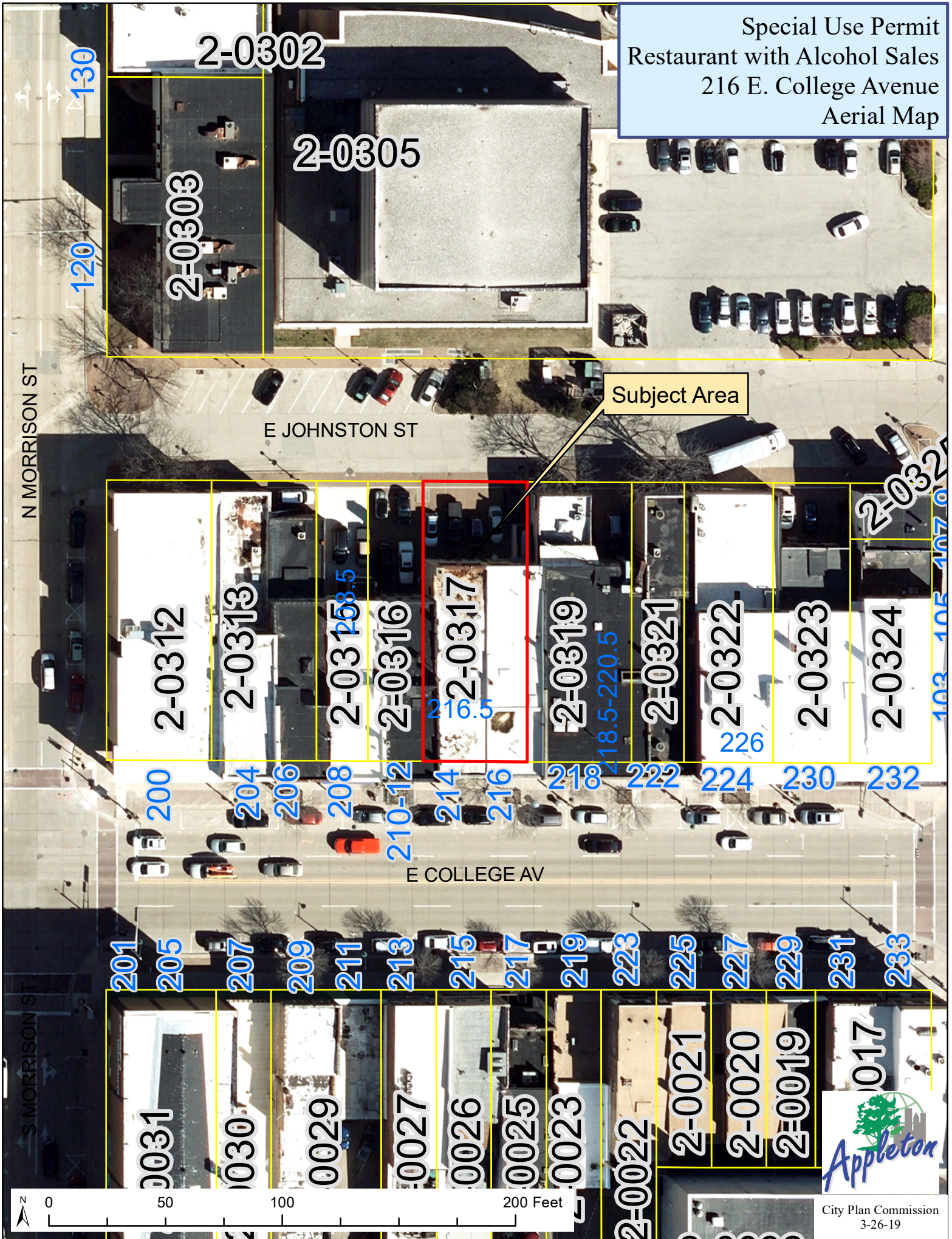
Kami Lynch, City Clerk

Special Use Permit  
 Restaurant with Alcohol Sales  
 216 E. College Avenue  
 Zoning Map





Special Use Permit  
Restaurant with Alcohol Sales  
216 E. College Avenue  
Aerial Map



2-0302

2-0305

2-0303

120  
130

N MORRISON ST

E JOHNSTON ST

Subject Area

2-0312

2-0313

2-0315  
158.5

2-0316

2-0317  
216.5

2-0319

18.5-220.5

2-0321

2-0322

226

2-0323

2-0324

2-0325

200

204

206

208

210-12

214

216

218

222

224

230

232

E COLLEGE AV

201

205

207

209

211

213

215

217

219

223

225

227

229

231

233

2-0031

2-0030

2-0029

2-0027

2-0026

2-0025

2-0023

2-0022

2-0021

2-0020

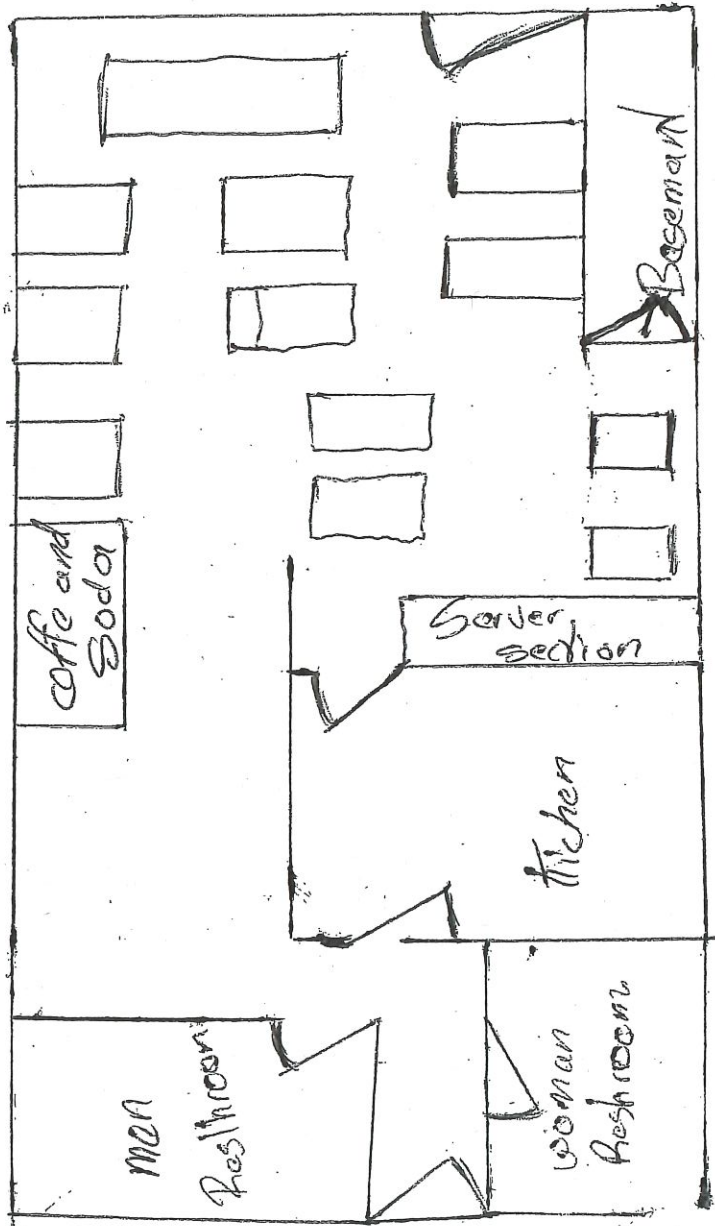
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2-0017



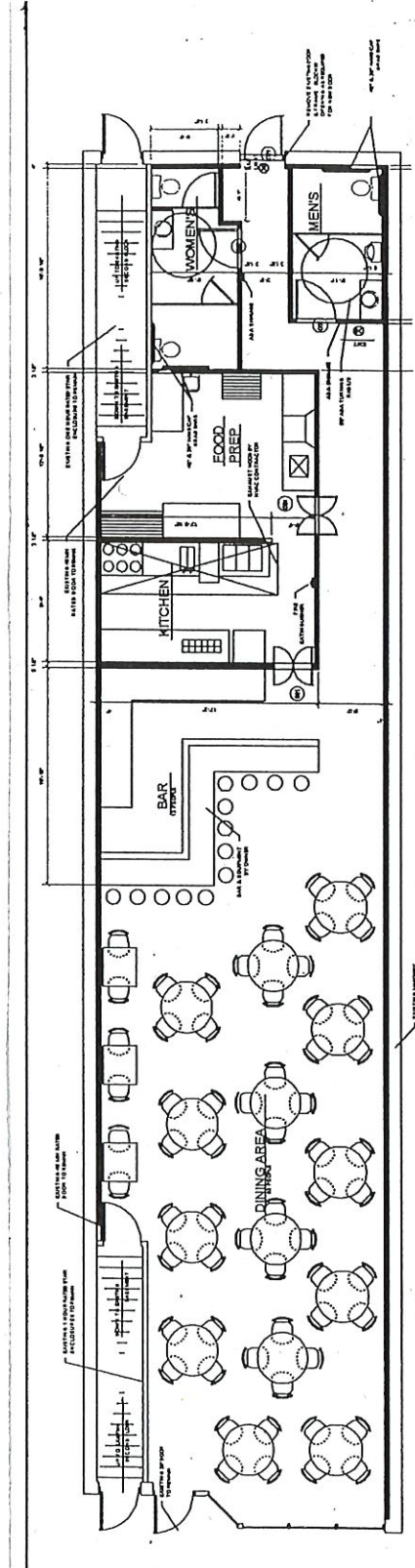
0 50 100 200 Feet





Special Use Permit  
 Restaurant with Alcohol Sales  
 216 E. College Avenue





Special Use Permit  
 Restaurant with Alcohol Sales  
 216 E. College Avenue



**TAVERN AND/OR RESTAURANT WITH ALCOHOL SALES  
PLAN OF OPERATION AND LOCATIONAL INFORMATION**

**Business Information:**

Name of business: Garden View

Years in operation: 5 Months

Percentage of business derived from restaurant service: 51 %

Type of proposed establishment (detailed explanation of business):

We servis American & Mexican food

**Proposed Hours of Operation for Indoor Uses:**

Day	From	To
Week Day <u>7:00 AM</u>	<u>6:00 AM</u>	<u>10:00 P.M.</u>
Friday	<u>6:00 AM</u>	<u>10:00 P.M.</u>
Saturday	<u>6:00 AM</u>	<u>10:00 P.M.</u>
Sunday	<u>6:00 AM</u>	<u>10:00 P.M.</u>

**Building Capacity and Area:**

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 90 persons

Gross floor area of the existing building(s): 3000 feet

Gross floor area of the proposed building(s): \_\_\_\_\_

**Describe Any Potential Noise Emanating From the Proposed Use:**

Describe the noise levels anticipated from all equipment or other mechanical sources:

There should be little to no noise from the coolers

Describe how the crowd noise will be controlled inside and outside the building:

This is a family restaurant and there won't be any restaurant tables outside. There won't be any loud music in or outside the restaurant.

If off-street parking is available for the business, describe how noise from the parking lot will be controlled:

N/A

**Outdoor Uses:**

Location, type, size and design of outdoor facilities:

N/A

Type and height of screening of plantings/fencing/gating:

N/A

Is there any alcohol service incorporated in this outdoor facility proposal? Yes \_\_\_ No

Are there plans for outdoor music/entertainment? Yes \_\_\_ No

If yes, describe how the noise will be controlled:

Is there any food service incorporated in this outdoor facility proposal? Yes \_\_\_ No

**Proposed Hours of Operation for Outdoor Uses:**

Day	From	To
Week Day	<u>N/A</u>	<u>N/A</u>
Friday	<u>N/A</u>	<u>N/A</u>
Saturday	<u>N/A</u>	<u>N/A</u>
Sunday	<u>N/A</u>	<u>N/A</u>



**Outdoor Lighting:**

Type: front the wall sign

Location: front the building

**Off-Street Parking:**

Number of spaces existing: 0

Number of spaces proposed: 0

**Other Licensed Premises:**

The number of licensed premises within the immediate geographic area of the proposed location will be considered in order to avoid an undue concentration that may have the potential of creating public safety problems or deterring neighborhood development.

List nearby licensed premises:

Antojitos Mexicanos.  
\_\_\_\_\_  
\_\_\_\_\_

**Number of Employees:**

Number of existing employees: 4

Number of proposed employees: \_\_\_\_\_

Number of employees scheduled to work on the largest shift: 1



## REPORT TO CITY PLAN COMMISSION

**Municipal Services Committee Meeting Date:** April 3, 2019

**Plan Commission Informal Public Hearing Date:** March 26, 2019

**Common Council Meeting Date – Initial Resolution:** April 3, 2019

**Common Council Meeting Date – Public Hearing (40-day waiting period):** May 15, 2019

**Item:** Street Discontinuance to vacate a portion of East Kimball Street

**Case Manager:** David Kress

### GENERAL INFORMATION

**Owner/Applicant:** City of Appleton / Tom Kromm, Department of Public Works

**Street Name/Location:** Portion of East Kimball Street, generally located west of South Allen Street

**Owner/Applicant's Request:** The applicant is requesting a street discontinuance to vacate a portion of East Kimball Street west of South Allen Street.

### BACKGROUND

Part of the subject area is included in a Development Agreement that was approved by Common Council on December 19, 2017 and amended/restated on August 15, 2018. The proposed development area, commonly referred to as the "bluff site," also includes part or all of parcels #31-2-0156-00, #31-2-0144-00, and #31-2-0152-00. The need to vacate streets was anticipated in Section 3.13 of the Development Agreement.

The proposed street vacation is part of a broader effort to redefine street and lot configurations in the bluff site area. On March 20, 2019, Common Council approved a Relocation Order for new street right-of-way for Oneida Street extended, between Lawrence Street and Rocky Bleier Run. The acquisition area identified in the Relocation Order aligns with the 60-foot wide space shown on the attached exhibit map, which will remain as public right-of-way.

### STAFF ANALYSIS

**Title to Vacated Street:** When vacated, the land must revert to its original source, which in this case includes the parcels located north and south of the proposed vacation area. Consequently, title to the street being vacated will belong to the adjoining property owner. The adjoining property owner will acquire an ownership interest in the land vacated, totaling approximately 1,920 square feet, as shown on the attached map.

**Existing Public Utilities:** The City will retain an easement for all existing utilities and any future utilities deemed necessary within the entire length and width of the vacated right-of-way.

**Street Right-of-Way Width:** This portion of East Kimball Street is approximately 32 feet wide.

## **Street Vacation – East Kimball Street**

**March 26, 2019**

**Page 2**

**Street Classification:** The City's Arterial/Collector Plan Map identifies this portion of East Kimball Street as a local street.

**Surrounding Zoning and Land Uses:** The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally commercial and institutional in nature.

**North:** CBD Central Business District. The adjacent property to the north is currently unoccupied (formerly occupied by Trinity Lutheran Church).

**South:** CBD Central Business District. The adjacent property to the south is currently unoccupied (formerly occupied by Michiels Fox Banquet Rivertyme Catering).

**East:** CBD Central Business District. Existing Kimball Street right-of-way is immediately east of the subject area.

**West:** CBD Central Business District. The adjacent property to the west is currently unoccupied and includes a previously-vacated segment of Kimball Street.

**Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* Future Land Use Map identifies this area with a future Mixed Use designation. The proposed street vacation is consistent with the following excerpts from the *Comprehensive Plan 2010-2030*.

### *Goal 4 – Transportation*

*Appleton will support a comprehensive transportation network that provides viable options for pedestrian, bicycle, highway, rail, and air transportation, both locally and within the region.*

### *OBJECTIVE 6.9 Transportation:*

*Implement the transportation-related recommendations contained within related plans.*

*Policy 6.9.2 Implement the recommendations of the 2016 Downtown Mobility Study.*

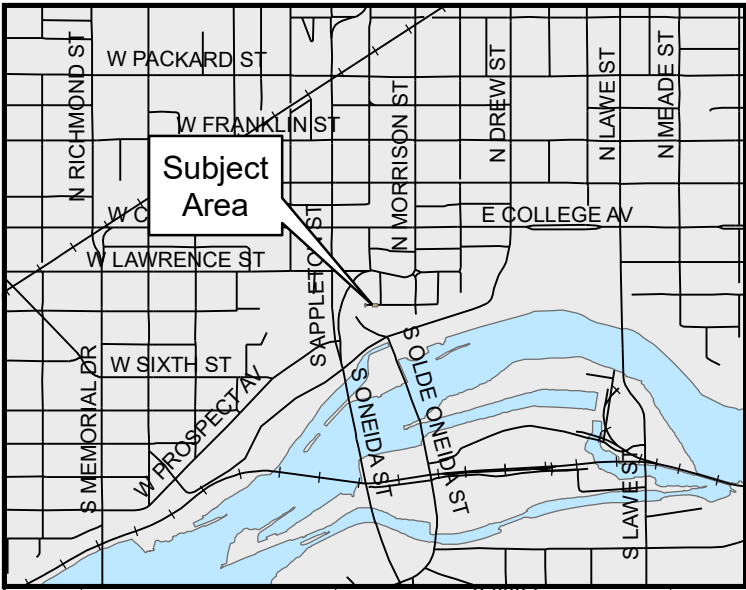
**Technical Review Group (TRG) Report:** This item was discussed at the March 5, 2019 Technical Review Group meeting. No negative comments were received from participating departments.

## **RECOMMENDATION**

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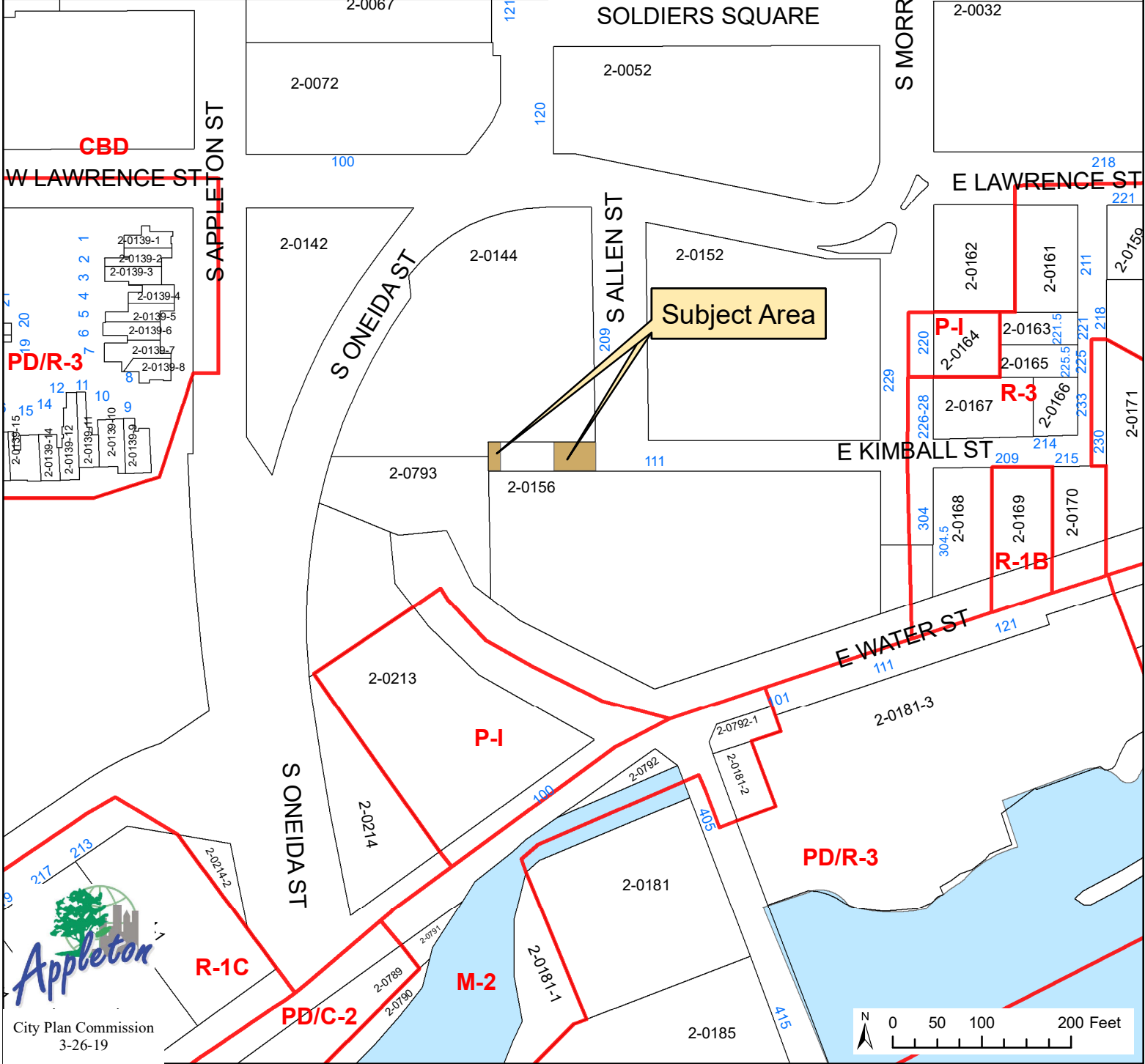
Staff recommends the discontinuance of a portion of East Kimball Street public right-of-way, as shown on the attached map and legal description, pending approval by the Municipal Services Committee, and the adoption of the Initial Resolution, **BE APPROVED**.

# Kimball Street (West of Allen Street) Street Vacation Zoning Map

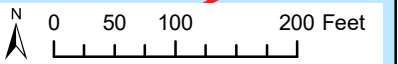


Subject Area

2-0287	2-0282-12	2-0312
	2-0282-13	2-0313
	2-0282-14	2-0315
	2-0282-15	2-0316
		2-0317
		2-0319
		2-0320.5



Subject Area





Kimball Street (West of Allen Street)  
Street Vacation  
Aerial Map



2-0144

2-0152

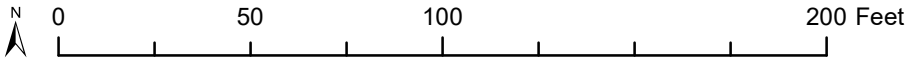
Subject Area

E KIMBALL ST

2-0793

2-0156

ROCKY BLEIER RUN





**INITIAL RESOLUTION**

**WHEREAS**, the public interest requires that a portion of East Kimball Street, west of South Allen Street, that has not previously been vacated, be vacated and discontinued,

**BE IT RESOLVED**, that the Common Council of the City of Appleton, Wisconsin, hereby determines that the public interest requires that a portion of East Kimball Street, City of Appleton, Outagamie County, Wisconsin, as hereinafter described, is hereby vacated and discontinued pursuant to §66.1003 of the Wisconsin Statutes.

**LEGAL DESCRIPTION**

*All that part of Kimball Street lying between Block Ten (10) and Block D of the APPLETON PLAT (aka Second Ward Plat), all according to the recorded Assessor's Map of the City of Appleton, being located in the SE ¼ of the SW ¼ of Section 26, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin, containing 1,920 Square feet of land and being more fully described by:  
Commencing at the Southeast corner of said Block 10 and being coincident with the Northwest corner of Allen Street and Kimball Street and being the point of beginning;  
Thence South 00°57'34" East 32.00 feet coincident with the Southerly extension of the West line of Allen Street to the South line of Kimball Street;  
Thence North 89°57'25" West 106.33 feet coincident with the South line of said Kimball Street;  
Thence continue North 89°57'25" West 13.67 feet coincident with the South line of said Kimball Street;  
Thence North 00°57'34" West 32.00 feet to the North line of Kimball Street;  
Thence South 89°57'25" East 14.18 feet coincident with the North line of Kimball Street;  
Thence South 00°02'58" East 32.00 feet to the South line of Kimball Street;  
Thence South 89°57'25" East 60.00 feet coincident with the South line of Kimball Street;  
Thence North 00°02'58" West 32.00 feet to the North line of Kimball Street;  
Thence South 89°57'25" East 45.82 feet coincident with the North line of Kimball Street to the **point of beginning**.*

See also attached Exhibit "A" for illustration.

**EASEMENTS**

The City of Appleton their heirs, successors and or assigns (Grantee) hereby retain an easement for any and all existing utilities and also any future utilities deemed necessary or desirable by Grantee within the vacated right of way, including but not limited to, storm sewer, drainage, sanitary sewer, watermain, gas, electric, cable and fiber- optic within the entire length and width of the above described right of way.

It is further agreed that this easement shall be a permanent easement.

It is further agreed that Grantee shall have the right to install, regrade, replace, relocate,

operate, maintain, resize and repair any and all of these utilities and their associated appurtenances. It is further agreed that after installing, regrading, replacing, relocating, operating, maintaining, resizing or repairing of these utilities and their associated appurtenances Grantee shall restore unimproved surfaces such as grass, gravel and dirt on said property, as closely as possible, to the condition previously existing. Grantee shall not be required to restore or compensate for any improvements or improved surfaces such as, but not limited to, curb and gutter, hard pavements, trees, shrubs and landscaping, disturbed as a result of the maintenance activities described herein. Buildings or any other type of permanent structure shall not be placed over Grantees' facilities or in, upon or over said easement area. This easement includes the right to operate all equipment deemed necessary by Grantee to perform said activities. Grantee agrees that it shall give timely notice to the Grantor of routine maintenance work.

**COMMON DESCRIPTION:**

A portion of East Kimball Street, west of South Allen Street

***FURTHER RESOLVED***, that the City Clerk of the City of Appleton be authorized and directed to give notice required by §66.1003 of the Wisconsin Statutes.

***FURTHER RESOLVED***, that according to §66.1005 of the Wisconsin Statutes, upon vacation and discontinuance of said portion of East Kimball Street, title to the above-described street shall belong to the adjoining property owners and shall acquire an ownership interest in the entire area being vacated as shown on the attached Exhibit Map.

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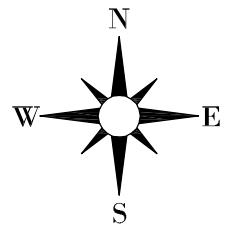
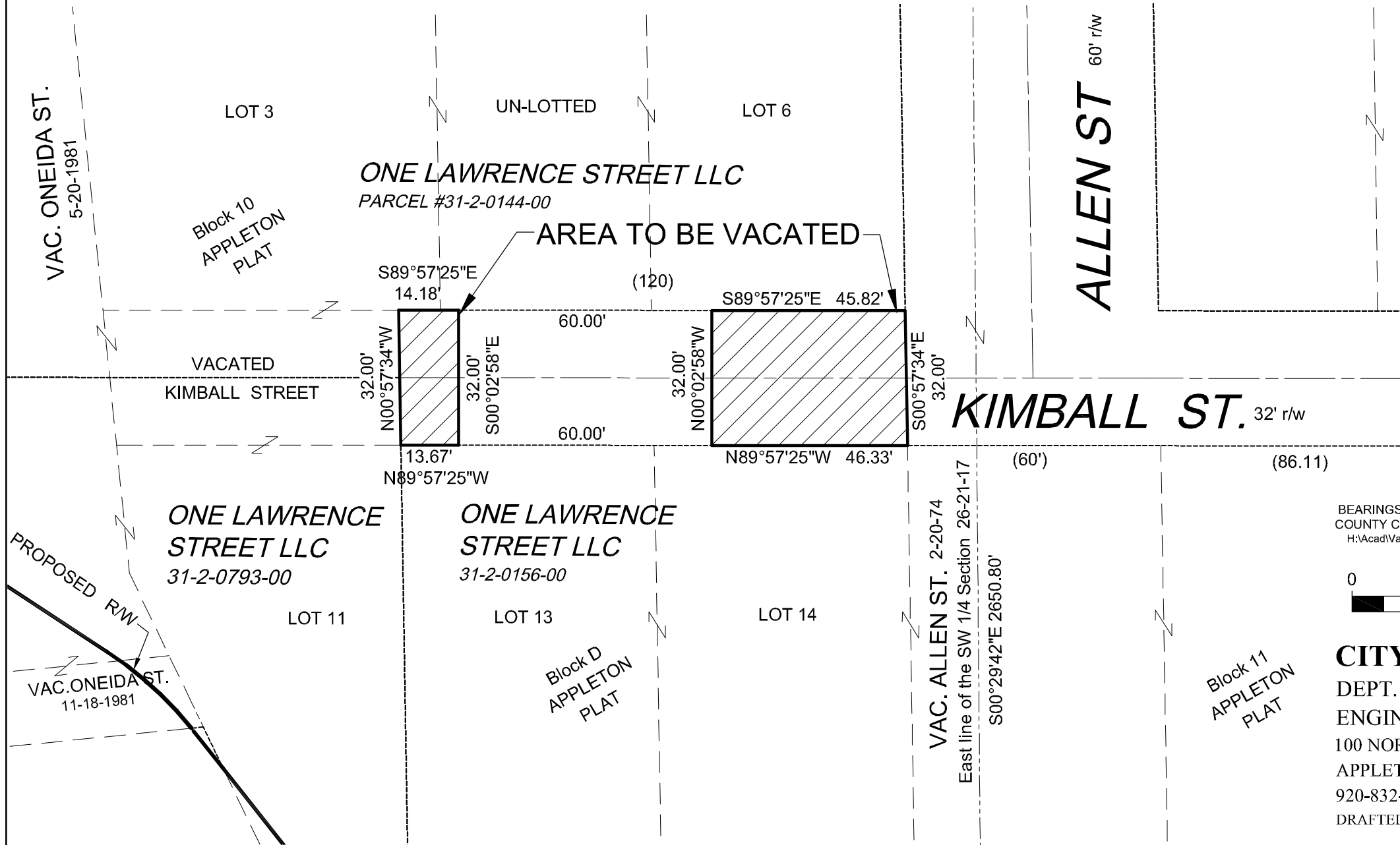
Date  
City Law: A19-0178

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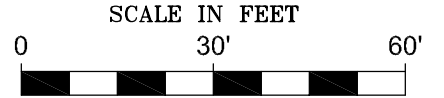
Christopher W. Croatt

# EXHIBIT "A"

PART OF KIMBALL STREET LYING BETWEEN BLOCK 10 AND BLOCK D, APPLETON PLAT, (AKA SECOND WARD PLAT), ALL ACCORDING TO THE RECORDED ASSESSOR'S MAP OF THE CITY OF APPLETON, BEING LOCATED IN THE SE 1/4 OF THE SW 1/4 OF SECTION 26, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.



BEARINGS ARE REFERENCED TO WISCONSIN COUNTY COORDINATES, OUTAGAMIE COUNTY  
 H:\Acad\Vacation\2019\Kimball\_WO\_Allen\_2012\_2019



**CITY OF APPLETON**  
 DEPT. OF PUBLIC WORKS  
 ENGINEERING DIVISION  
 100 NORTH APPLETON STREET  
 APPLETON, WI 54911  
 920-832-6474  
 DRAFTED BY: T. KROMM



Memo: Wal-mart Excessive Assessment Claim  
Date: March 18th, 2019  
To: Finance Committee  
From: DeAnn Brosman, City Assessor

An Excessive Assessment claim was filed by Wal-mart at 3701 E. Calumet St. for tax year 2018. The Board of Review sustained this real estate assessment on July 18<sup>th</sup>, 2018 following the presentation of evidence and testimony by Wal-mart and our assessment staff.

The property, identified as real estate parcel #31-9-5710-00, is assessed at \$10,800,000. It was reduced by 9% from \$11,900,000 during the Assessor's Open Book period for tax year 2017. In this claim, Wal-mart is requesting further reduction of 12% to \$9,500,000 and a tax refund of \$31,025 for tax year 2018.

We believe the assessment to be fair and at market value. Please see the attached comparison of assessed values. Sufficient evidence has not been provided to support a reduction at this time. For this reason, I am requesting that you deny the claim.

**2018 Assessed Value Comparison of Wal-marts in NE Wisconsin**

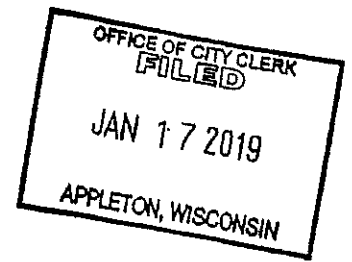
3/8/2019

Address	Municipality	Age	Lot Acres	Building Sq.Ft.	Total Asmt	Total Asmt/Sq.Ft.
4115 Calumet	Manitowoc	1990	20.3	202,432	\$9,500,000	\$46.93
120 Francis	Beaver Dam	2004	18.2	181,272	\$9,063,000	\$50.00
1415 Lawrence	Depere	2003	17.5	189,186	\$9,950,000	\$52.59
<b>3701 Calumet</b>	<b>Appleton</b>	<b>2000</b>	<b>18.4</b>	<b>205,112</b>	<b>\$10,800,000</b>	<b>\$52.65</b>
250 Crossroads	Plover-Stv Point	2005	21.0	206,954	\$10,958,300	\$52.95
1155 Winneconne	Neenah	2003	16.4	203,669	\$11,000,000	\$54.01
955 Mutual Way	Grand Chute	1992	19.7	194,738	\$10,886,600	\$55.90
3711 Taylor	Sheboygan	2006	24.0	215,322	\$13,265,000	\$61.61
377 Rolling Meadow	Fond Du Lac	1991-2003	16.1	193,034	\$13,498,100	\$69.93
351 Washburn	Oshkosh	2002	22.8	208,278	\$16,592,000	\$79.66

The two Green Bay Wal-marts are not listed. (2240 W Mason is on tax exempt Oneida Nation land & 2292 Main is on a municipal boundary with a split asmt)

**2018 Assessed Value Comparison of Big Box Stores in the City of Appleton**

Address	Occupant	Age	Lot Acres	Building Sq. Ft.	Total Asmt	Total Asmt/Sq.Ft.
3300 E. Express Ct	Menards	1995	18.0	160,680	\$7,435,600	\$46.28
2201 S. Kensington Dr	Home Depot	2000	14.9	118,250	\$5,767,200	\$48.77
<b>3701 E. Calumet St</b>	<b>Wal-mart</b>	<b>2000</b>	<b>18.4</b>	<b>205,112</b>	<b>\$10,800,000</b>	<b>\$52.65</b>
1800 S. Kensington Dr	Target	1999	11.2	125,111	\$6,630,900	\$53.00



## CLAIM FOR EXCESSIVE ASSESSMENT

TO: City Clerk  
City of Appleton  
100 North Appleton Street  
Appleton, WI 54911-4799

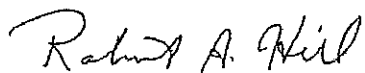
Now comes Claimant, Wal-Mart #01-2958 Real Estate, tenant on parcel number 31-9-5710-00 (the "Property") in Appleton, Wisconsin, by Claimant's agent/attorney Robert Hill Law, Ltd., and files this Claim for Excessive Assessment against the City of Appleton (the "City"), pursuant to WIS.STAT. § 74.37.

1. Claimant is the tenant on the property, located at 3701 E Calumet St, Appleton, Wisconsin, is responsible for taxes on the Property and is authorized to bring this claim in its own name.
2. For 2018, property in the City was assessed at 90.92% of its fair market value as of January 1, 2018, and was taxed at \$23.887 per \$1,000 of assessed value.
3. The 2018 assessment of the property was set by the City Assessor's office at \$10,800,000.
4. Claimant made a timely appeal to the Board of Review, and the Board determined the 2018 Final Assessment to be \$10,800,000.
- \*5. Based on this assessment, the City imposed a tax of \$257,951.60 on the Property.
6. The fair market value of the Property for the 2018 assessment is no higher than \$9,898,812. This value is derived from sales of comparable properties and by ascertaining the fair market rent for the Property and capitalizing that amount, net of a vacancy and collection loss and net of expenses. In addition, the Property was not assessed uniformly in compliance with Article VIII, Section 1 of the Wisconsin Constitution.
7. Based on the assessment ratio set forth in paragraph 2, the correct assessment of the Property for the 2018 assessment should be no higher than \$9,500,000, and the correct tax on the Property for 2018 should be no higher than \$226,926.50.
8. As a result of the excessive assessment of the Property for 2018, an excess tax in at least the amount of \$31,025.10 was imposed on the Property.

9. The amount of this claim is \$31,025.10, plus interest thereon at the applicable statutory rate.

Dated at Wayzata, Minnesota this 17th day of January, 2019.

ROBERT HILL LAW, LTD.



Robert A. Hill  
1161 Wayzata Blvd E, #399  
Wayzata, MN 55391  
(952) 426-7373  
[bob@roberthilllaw.com](mailto:bob@roberthilllaw.com)

19 .MA



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

**PARKS, RECREATION & FACILITIES  
MANAGEMENT**

**Steven Schrage, Project Manager**

1819 East Witzke Boulevard  
Appleton, Wisconsin 54911-8401  
(920) 832-5972 FAX (920) 993-3103  
Email – [steven.schrage@appleton.org](mailto:steven.schrage@appleton.org)

TO: Finance Committee

FROM: Steven J. Schrage, Project Manager, Parks Recreation and Facilities Management

DATE: 3/25/2019

RE: Action: Award the Fire Station #1 “2019 Partial Roof Replacement Project” contract to Kaschak Roofing, Inc. in the amount of \$137,100 with a contingency of 15% for a project total not to exceed \$157,665.

The 2019 Capital Improvement Plan includes \$225,000 for a partial roof replacement at Fire Station #1. The amount of \$15,000 has been utilized for design and \$20,000 has been allocated for the modification of the mechanical systems located on the roof. Fire Station #1 was constructed in 1965, and the most recent repairs to that section of roof was in 1996. Our annual roof inspection program identifies roofing in need of replacement and allocates resources to allow for proactive replacement to protect and preserve the facility’s asset. In preparation for the roof replacement, we have to modify the mechanical systems located on the roof. This includes but is not limited to HVAC ductwork modifications, relocation of refrigerant lines, electrical relocation, and new roof drains.

The bids were received as follows:

<b>Kaschak Roofing (low bid)</b>	<b>\$137,100</b>
Walsdorf Roofing	\$159,473
Weinert Roofing	\$159,845
Northern Metal and Roofing	\$161,140
Crafts Inc.	\$164,340

Our consulting engineer has written the City of Appleton a formal letter of recommendation to award the contract to Kaschak Roofing, Inc. The Parks, Recreation, and Facilities Management Department has also reviewed the bids and is in agreement with the engineer’s recommendation. Therefore, we recommend awarding the contract to Kaschak Roofing, Inc in the amount of \$137,100 plus a contingency of 15% only to be utilized as needed.

If you have any questions regarding this project please contact Steven Schrage at 920-832-5972 or [steven.schrage@appleton.org](mailto:steven.schrage@appleton.org)

## Resolution

WHEREAS, the City of Appleton is interested in developing lands for public outdoor recreation purposes as described in the application for the Lawe Street Trestle Trail;

WHEREAS, financial aid is required to carry out the project;

THEREFORE, BE IT RESOLVED, that the City of Appleton has budgeted a sum sufficient to complete the project.

HEREBY AUTHORIZES Dean Gazza, Director of Parks, Recreation, and Facilities Management to act on behalf of the City of Appleton to:

- submit an application to the State of Wisconsin Department of Natural Resources for any financial aid that may be available;
- submit reimbursement claims along with necessary supporting documentation within 6 months of project completion date;
- submit signed documents;
- and take necessary action to undertake, direct and complete the approved project.

BE IT FURTHER RESOLVED that the City of Appleton will:

- comply with state or federal rules for the programs;
- may perform force account work;
- will maintain the completed project in an attractive, inviting and safe manner;
- will keep the facilities open to the general public during reasonable hours consistent with the type of facility;
- and will obtain from the State of Wisconsin Department of Natural Resources or the National Park Service approval in writing before any change is made in the use of the projectsite.

Adopted this \_\_\_\_ day of April, 2019.

I hereby certify that the foregoing resolution was duly adopted by the Appleton Common Council at a legal meeting on the 3<sup>rd</sup> day of April, 2019.

By: \_\_\_\_\_  
Timothy M. Hanna, Mayor

City Law A17-0021

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

**City of Appleton  
2018 - 2019 REAPPROPRIATION REQUESTS - NOT UNDER CONTRACT**

Fund / Org Project	Object Seg 1	Proj Seg 2	Contract Seg 3 #	PO/ Project #	Year Budgeted	Vendor	PROJECT	Carryover	JUSTIFICATION	
N	4210	681500	1925		2018		Fire Records Management System	41,173	Started project fourth quarter of 2018. There are still a number of pending items with this project.	
<b>Subtotal - Public Safety Capital Project Not Under Contract</b>								<b>41,173</b>		
N	4350	6802	4330	None	225393	2018	To Be Determined	68,039	This is to cover owner purchase items such as benches, signage, cameras, wi-fi, tables, etc.	
N	4350	6804	1	4235	None	249710	2018	To Be Determined	11,200	To combine with 2019 budget to redevelop Pierce Park statues and monuments. Conceptual design performed in 2018.
<b>Subtotal - Facilities Capital Project Not Under Contract</b>								<b>79,239</b>		
N	5210	640400				2018	RA Smith	12,472	Stormwater is contributing \$12,688 to the Community Development led effort.	
N	5230	680100				2018	land owners	32,815	Still need to purchase from ARBB Farms and Clearwater Creek	
N	5230	680100				2018	land owners	100,000	Street and Storm work delayed. Need easement from Pathways Church	
N	5230	680100				2018	land owners	200,000	Leona purchased with 2017 funds. Now needed for Spartan	
N	5230					2018	WI DNR	50,000	Spartan wetland mitigation fees still in process at DNR	
<b>Subtotal - Stormwater Not Under Contract</b>								<b>395,287</b>		
N	WTRUTL	CHEMSTORAG	CONTRACTOR			2018		248,806	Balance of Water Chemical project, construction started late in 2018.	
<b>Subtotal - Water Utility Not Under Contract</b>								<b>248,806</b>		
N	5431	640400				2018		50,000	Consulting service contract delayed until 2019. Construction tentatively planned for 2020 or 2021.	
N	WWUTL	PROCIMPRV	CONTRACTOR			2018		302,445	Construction will begin Spring 2019. Project includes replacement of older equipment potential for additional unknown costs.	
N	WWFMD	ELECTDISTR	BUILDING			2018		400,000	Budget adjustment from positive variance from WWTP Improvement project.	
N	WWLIFT	MIDWAY	CONTRACTOR			2018		41,956	Construction contract to start spring of 2019 balance of budget not under contract	
N	WWLIFT	BRIARCLFLS	CONTRACTOR			2018		20,005	Construction contract to start spring of 2019 balance of budget not under contract. Marshall Heights lift station project postponed to complete work at Briarcliff.	
N	WWUTL	PLCSCADA				2018		124,872	PLC integration to begin in 2019, project to be completed by the end of 2019.	
<b>Subtotal - Wastewater Utility Not Under Contract</b>								<b>939,278</b>		
N	58072000	680403	1800					5,000,000	Capital grant award pending bus procurement & maintenance facility evaluation	
<b>Subtotal - Valley Transit Not Under Contract</b>								<b>5,000,000</b>		

**City of Appleton**  
**2018 - 2019 REAPPROPRIATION REQUESTS - NOT UNDER CONTRACT**

Fund / Org Project	Object Seg 1	Proj Seg 2	Contract Seg 3	Contract #	PO/ Project #	Year Budgeted	Vendor	PROJECT	Carryover	JUSTIFICATION
<b>Unclassified General Fund</b>										
N	12020	6640						Fuel contingency	137,315	Carry forward balance of fuel budget contingency
N	12020	6640						Operating contingency	402,298	Carry forward balance of operating budget contingency
N	12020	6640						State aid contingency	849,107	Carry forward balance of State aid contingency
N	12020	664100						Wage reserve	989,564	Balance of wage reserve contingency
<b>Public Works</b>										
N	17014	680100				2018	land owners	Spartan Land Acquisition	112,564	Still need to purchase from ARBB Farms and Clearwater Creek
N	17014	680100				2018	land owners	Misc land acquisition for streets	25,000	Lenz septic field replacement
<b>Subtotal - General Fund Not-Under Contract</b>									<b>2,515,848</b>	
<b>Grand Total - Not Under Contract</b>									<b>9,219,631</b>	



**City of Appleton**  
**2018 - 2019 REAPPROPRIATION REQUESTS - SPECIAL CONSIDERATION**

Fund / Org Project	Object Seg 1	Proj Seg 2	Contract Seg 3 #	PO/ Project #	Year Budgeted	Vendor	PROJECT	Carryover	JUSTIFICATION
S	5123				2018		Yellow and Green Ramp damage - insurance deductible	1,000	Unused Budget - Funds to be used to cover fire damage repair costs at Yellow and Green Ramp elevators not covered by insurance.
<b>Subtotal - Parking Special Consideration</b>								<b>1,000</b>	
S	5210				2018		Emergency storm sewer repair/replacement, Kernan Ave & Crestview C	150,000	Emergency storm sewer repair/replacement, Kernan Ave & Crestview Ct.
S	5230				2018		Emergency storm sewer repair/replacement, Kernan Ave & Crestview C	1,800,000	Emergency storm sewer repair/replacement, Kernan Ave & Crestview Ct.
<b>Subtotal - Stormwater Special Consideration</b>								<b>1,950,000</b>	
S	5630	650302		None	2018	Yamaha Motor Corp	2018 Property Tax on Golf Carts	3,161	Personal Property Taxes on Golf Carts that we have not received the invoice for
<b>Subtotal - Reid Golf special consideration</b>								<b>3,161</b>	
S	13030	632700			2018		Upgrade the Hirsch Velocity System	23,159	Upgrade the Velocity door access system throughout all City Buildings
S	17033	632508					Salt	150,000	Special request to purchase additional street salt
<b>Subtotal - General Fund Special Consideration</b>								<b>173,159</b>	
<b>Grand Total - Special Consideration</b>								<b>2,127,320</b>	



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

---

**PARKS, RECREATION & FACILITIES  
MANAGEMENT**

**Dean R. Gazza, Director**

1819 East Witzke Boulevard

Appleton, Wisconsin 54911-8401

(920) 832-5572 FAX (920) 993-3103

Email - [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org)

**To:** Finance Committee

**From:** Dean R. Gazza, Director of Parks, Recreation and Facilities Management

**Date:** March 25, 2019

**Re:** Action: Approve Land Purchase from Neenah Paper FR, LLC in the amount of \$100.

---

The Parks, Recreation, and Facilities Management Department is in the process of designing and permitting for the construction of the Lawe Street Trestle Trail. In order for the Lawe Street Trestle Trail to cross Lawe Street and join the North Island Trail, the City needs to acquire land from Neenah Paper FR, LLC.

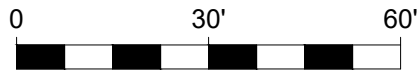
The City and Neenah Paper have agreed to the purchase of 8,950 square feet for land along the Fox River in the amount of \$100. Attached is the CSM and Project Overview Location Map.

The 2019 Capital Improvement Budget includes funding for acquisition of needed property to continue design and permitting for construction of the Lawe Street Trestle Trail.

Please feel free to contact me at 832-5572 with any questions, or by email at [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org).

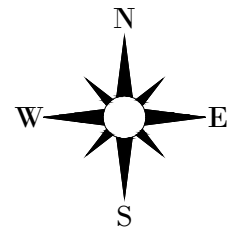
# CERTIFIED SURVEY MAP NO. \_\_\_\_\_

PART OF LOT 11, GRAND CHUTE ISLAND PLAT, ACCORDING TO THE RECORDED ASSESSOR'S MAP OF THE CITY OF APPLETON, BEING LOCATED IN GOVERNMENT LOT 1 OF SECTION 35, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.



BEARINGS ARE REFERENCED TO THE WISCONSIN COUNTY COORDINATE SYSTEM, OUTAGAMIE COUNTY, EAST LINE OF GOV'T LOT 1 SECTION 35-21-17 RECORDED AS N.00°08'02"W.  
H:\Acad\CSM\2018\LaweSt\_Neenah\_Paper\_1107\_2018

- LEGEND**
- = 3/4" Iron Rebar, 24" long, Weighing 1.5 lbs./ft. Set
  - ✕ = Chisel Mark Set
  - ⊕ = Chisel Mark Found
  - ▲ = 1.3" O.D. Iron Pipe Found Unless noted otherwise
  - ✱ = 3/4" Iron Rebar Found
  - ( ) = Measurements of Record
  - ⊙ = Government Corner
  - = 1 1/4" Iron Rebar Found



**VULCAN ST.**

**STREET**

**LAWME**

**FOX RIVER**

**OUTLOT 1**  
8,950 sq. ft. m/l

**NOTES:**

FEMA FIRM Panel Number 55087C0319D with an effective date of 7/22/2010 affects this property. The base flood elevation for this property ranges from 711.9-713.1; these elevations were derived from the Fox River Flood Profile in the FEMA Flood Insurance Study for Outagamie County, revised January 20, 2016. The BFE shown hereon is based on actual field measurements performed on 11/5/2018.

**PUBLIC TRUST:** Any land below the ordinary high water mark of a lake or navigable stream is subject to the public trust in navigable waters that is established under article IX, section 1, of the state constitution.

OUTLOT 1 currently consists of 1% of its total area as impervious surfaces.

This property and the adjoining properties are currently zoned M-2.

CURVE DATA TABLE				
CURVE	RADIUS	LENGTH	LC	LCB
C1	261.48'	124.95'	123.77'	N15°11'55"W
C2	261.48'	23.43'	23.42'	N04°04'32"W
C3	261.48'	101.52'	100.89'	N17°45'56"W

AREA WITHIN REGULATORY FLOODWAY (Zone AE)

100 YR. FLOOD LIMITS (BFE)

CONCRETE ABUTMENT

RAILROAD TRACK AND BRIDGE STRUCTURE

FOX RIVER PAPER COMPANY LLC  
PARCEL 9 OF  
QCD #1441623  
TAX 31-4-0277-00  
2007 ALTA Survey, Hebert and Assoc.

EAST 1/4 CORNER OF SECTION 35 T.21N. R.17E., BERNTSEN MONUMENT FOUND

NE CORNER OF SECTION 35 T.21N. R.17E., BERNTSEN MONUMENT FOUND

N01°30'29"W  
6'±

S87°39'02"W

S00°08'02"E 345.95'

EAST LINE OF GOV'T LOT 1, SECTION 35-21-17  
S00°08'02"E 2692.54'

N90°00'00"W 352.75'

C1, S55°11'55"E  
57.48', L. 57.59'

98.80'

112'±

13'±

S54°54'06"E

17.72'

154.47'

S54°54'06"E

MEANDER LINE

AOD #156076, Oct. 11, 1978

CITY OF APPLETON  
QCD J.1892, M.11  
TAX 31-4-0277-02

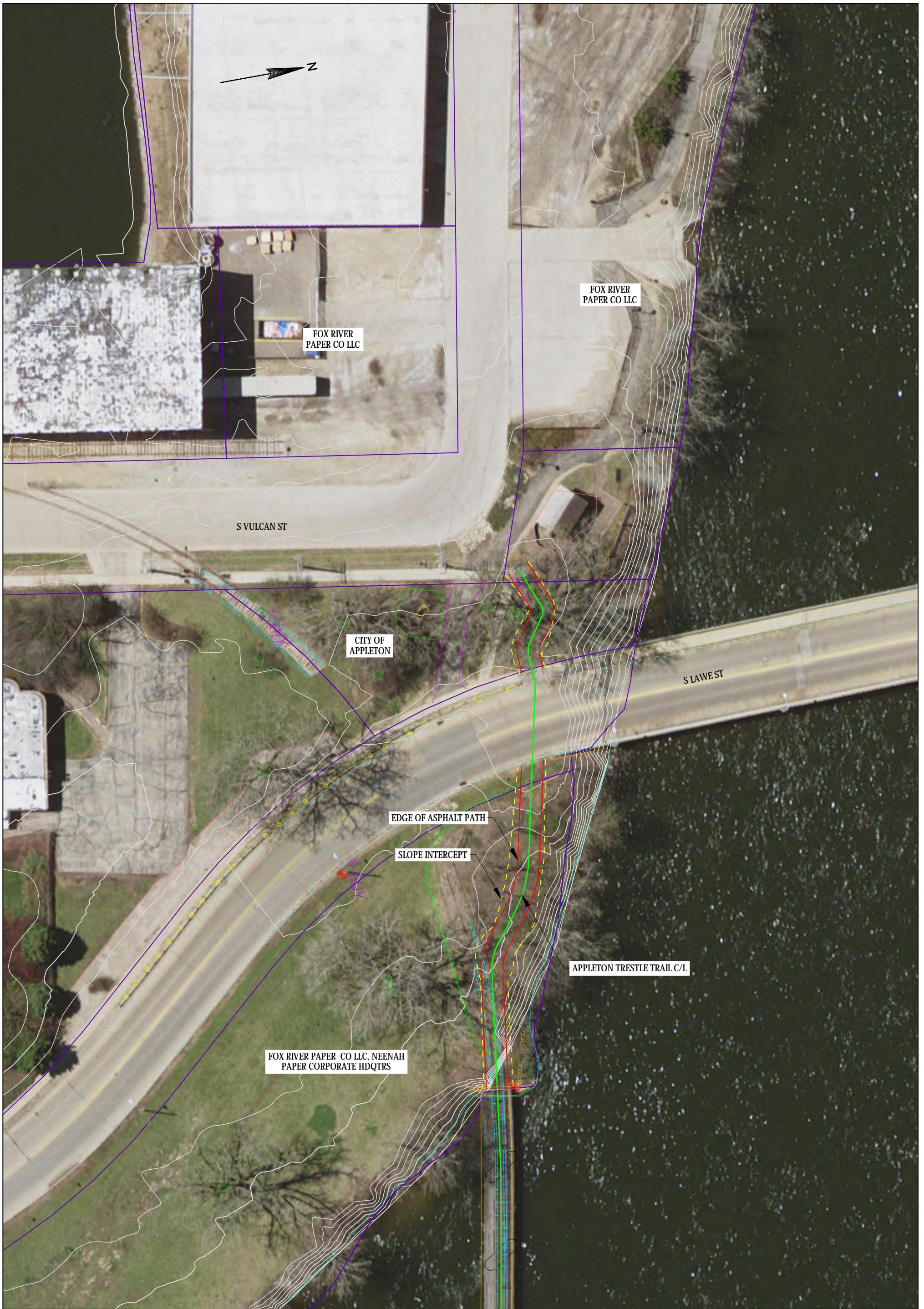
30'

60' R/W

30'

**CITY OF APPLETON**  
DEPT. OF PUBLIC WORKS  
ENGINEERING DIVISION  
100 NORTH APPLETON STREET  
APPLETON, WI 54911  
920-832-6474  
DRAFTED BY: T. KROMM SHEET 1 OF 3





# City of Appleton Lawe Street Trestle Trail Project Overview Map

SCALE, FEET 0 20 40





**CITY OF APPLETON**  
**Department of Public Works**  
**MEMORANDUM**

---

**TO:**  Finance Committee  
 Municipal Services Committee  
 Utilities Committee

**SUBJECT:** Award of Contract

---

**The Department of Public Works recommends that the following described work:**

C-19 Sidewalk Sawcutting

---

**Be awarded to:**

Name: ASTI Sawing, Inc.  
Address: 7454 HWY 18-151  
Barneveld, WI 53507

---

**In the amount of :** \_\_\_\_\_

**With a** \_\_\_\_\_ **% contingency of :** \_\_\_\_\_

**For a project total not to exceed :** \_\_\_\_\_

**\*\* OR \*\***

**In an amount Not To Exceed :** \_\_\_\_\_ **\$30,000.00**

Budget: \_\_\_\_\_ **\$30,000.00**  
Estimate: \_\_\_\_\_  
Committee Date: \_\_\_\_\_ **03/25/19**  
Council Date: \_\_\_\_\_ **04/03/19**

**SIDEWALK SAWCUTTING**

**BID TABULATION**

**Unit C-19**

**Monday, March 11, 2019**

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>Quantity</u>	<u>Units</u>	<u>ASTI Sawing, Inc.</u>	
				<u>Unit Price</u>	<u>Total</u>
1.	Sawcut Sidewalk	1,700	inch-ft	\$15.10	\$25,670.00

**\$25,670.00**

**CITY OF APPLETON**  
**Department of Public Works**  
**MEMORANDUM**

---

**TO:**  Finance Committee  
 Municipal Services Committee  
 Utilities Committee

**SUBJECT: Award of Contract**

---

**The Department of Public Works recommends that the following described work:**  
E-19 Miscellaneous Concrete & Street Excavation Repair

---

**Be awarded to:**

Name: Fischer-Ulman Construction, Inc.  
Address: 915 S. Midpark Drive  
Appleton, WI 54915

---

**In the amount of :** \_\_\_\_\_

**With a \_\_\_\_\_ % contingency of :** \_\_\_\_\_

**For a project total not to exceed :** \_\_\_\_\_

**\*\* OR \*\***

**In an amount Not To Exceed :** \$701,300.00

Budget: \$701,300.00  
Estimate: \$634,000.00  
Committee Date: 03/25/19  
Council Date: 04/03/19

MISCELLANEOUS CONCRETE & STREET EXCAVATION REPAIR

BID TABULATION

Unit E-19

Monday, March 18, 2019

ITEM	DESCRIPTION	Quantity	Units	Fischer Ullman		Al Dix	
				Unit Price	Total	Unit Price	Total
1.	Furnish & Install 3" Sidewalk at Vaults	80	sq. ft.	\$25.00	\$2,000.00	\$22.00	\$1,760.00
2.	Furnish & Install 4" Sidewalk at Vaults	60	sq. ft.	\$27.00	\$1,620.00	\$23.00	\$1,380.00
3.	Furnish & Install 6" Sidewalk at Vaults	60	sq. ft.	\$34.00	\$2,040.00	\$24.00	\$1,440.00
4.	Furnish & Install 3" Colored & Stamped Sidewalk at Vaults	60	sq. ft.	\$30.00	\$1,800.00	\$25.00	\$1,500.00
5.	Furnish & Install 4" Colored & Stamped Sidewalk at Vaults	60	sq. ft.	\$36.00	\$2,160.00	\$26.00	\$1,560.00
6.	Furnish & Install 6" Colored & Stamped Sidewalk at Vaults	60	sq. ft.	\$42.00	\$2,520.00	\$27.00	\$1,620.00
7.	Furnish & Install 4" Picture Frame Sidewalk	1,500	sq. ft.	\$10.00	\$15,000.00	\$10.00	\$15,000.00
8.	Furnish & Install 7" Picture Frame Sidewalk	700	sq. ft.	\$11.25	\$7,875.00	\$12.00	\$8,400.00
9.	Furnish & Install 5" Colored & Stamped Sidewalk	250	sq. ft.	\$32.00	\$8,000.00	\$25.00	\$6,250.00
10.	Pavement Marking, Grooved Preformed Thermoplastic, 18" contrast	872	lin.ft.	\$38.50	\$33,572.00	\$37.00	\$32,264.00
11.	Pavement Marking (Epoxy - 4")	100	lin.ft.	\$16.25	\$1,625.00	\$18.00	\$1,800.00
12.	Pavement Marking Crosswalk (Epoxy - 6")	100	lin.ft.	\$24.25	\$2,425.00	\$26.00	\$2,600.00
13.	Pavement Marking Stop Line (Epoxy - 18")	60	lin.ft.	\$72.50	\$4,350.00	\$68.00	\$4,080.00
14.	Furnish & Install High Early Concrete, 1 Day	20	cu.yds.	\$25.00	\$500.00	\$20.00	\$400.00
15.	Furnish & Install High Early Concrete, 3 Day	600	cu.yds.	\$22.00	\$13,200.00	\$16.00	\$9,600.00
16.	Furnish & Install 9" Plain Concrete Pavement	1,000	sq.yds.	\$95.00	\$95,000.00	\$75.00	\$75,000.00
17.	Furnish & Install 8" Plain Concrete Pavement	1,000	sq.yds.	\$59.55	\$59,550.00	\$70.00	\$70,000.00
18.	Furnish & Install 7" Plain Concrete Pavement	2,500	sq.yds.	\$53.25	\$133,125.00	\$68.00	\$170,000.00
19.	Furnish & Install 3" Asphalt Pavement	300	sq.yds.	\$58.00	\$17,400.00	\$65.00	\$19,500.00
20.	Unclassified Excavation	275	cu.yds.	\$18.00	\$4,950.00	\$20.00	\$5,500.00
21.	Furnish & Install Stone Base	675	ton	\$18.00	\$12,150.00	\$15.00	\$10,125.00
22.	Furnish & Place Aggregate Slurry	10	cu.yds.	\$100.00	\$1,000.00	\$100.00	\$1,000.00
23.	Furnish & Install 18" Curb & Gutter	100	lin.ft.	\$35.00	\$3,500.00	\$30.00	\$3,000.00
24.	Furnish & Install Curb Head (12")	650	lin.ft.	\$45.00	\$29,250.00	\$12.00	\$7,800.00
25.	Furnish & Install 30" Curb & Gutter	150	lin.ft.	\$45.00	\$6,750.00	\$35.00	\$5,250.00
26.	Furnish & Install Special Curb	40	lin.ft.	\$31.00	\$1,240.00	\$40.00	\$1,600.00
27.	Furnish & Install 8" Driveway Apron	150	sq.ft.	\$6.25	\$937.50	\$6.00	\$900.00
28.	Furnish & Install 7" Driveway Apron	500	sq.ft.	\$6.15	\$3,075.00	\$5.75	\$2,875.00
29.	Furnish & Install 5" Driveway Apron	1,500	sq.ft.	\$5.75	\$8,625.00	\$5.50	\$8,250.00
30.	Furnish & Install 8" Concrete Sidewalk	100	sq.ft.	\$6.25	\$625.00	\$6.00	\$600.00
31.	Furnish & Install 7" Concrete Sidewalk	1,200	sq.ft.	\$6.15	\$7,380.00	\$5.75	\$6,900.00
32.	Furnish & Install 5" Concrete Sidewalk	1,100	sq.ft.	\$5.75	\$6,325.00	\$5.50	\$6,050.00
33.	Furnish & Install 4" Concrete Sidewalk	6,200	sq.ft.	\$4.85	\$30,070.00	\$5.00	\$31,000.00
34.	Furnish & Install 7" Handicap Ramp	1,600	sq.ft.	\$6.25	\$10,000.00	\$5.75	\$9,200.00
35.	Furnish & Install Truncated Dome	200	sq.ft.	\$34.00	\$6,800.00	\$33.00	\$6,600.00
36.	Concrete Pavement Removal	4,500	sq.yd.	\$3.00	\$13,500.00	\$5.00	\$22,500.00
37.	Asphalt Pavement Removal	125	sq.yd.	\$3.00	\$375.00	\$5.00	\$625.00
38.	Curb & Gutter Removal	250	lin.ft.	\$5.00	\$1,250.00	\$5.00	\$1,250.00
39.	Curb Removal	50	lin.ft.	\$5.00	\$250.00	\$5.00	\$250.00
40.	Asphalt/Concrete Driveway Apron Removal	1,500	sq.ft.	\$1.40	\$2,100.00	\$1.50	\$2,250.00
41.	Asphalt/Concrete Handicap Ramp Removal	1,600	sq.ft.	\$1.40	\$2,240.00	\$1.50	\$2,400.00



MISCELLANEOUS CONCRETE & STREET EXCAVATION REPAIR

BID TABULATION

Unit E-19

Monday, March 18, 2019

ITEM	DESCRIPTION	Quantity	Units	Fischer Ullman		Al Dix	
				Unit Price	Total	Unit Price	Total
42.	Asphalt/Concrete Sidewalk Removal	11,500	sq.ft.	\$1.40	\$16,100.00	\$2.00	\$23,000.00
43.	Full Depth Sawcut	9,250	lin.ft.	\$4.00	\$37,000.00	\$5.00	\$46,250.00
44.	Furnish & Install Drilled-In Tie Bars - #3x12"	270	ea.	\$7.00	\$1,890.00	\$5.00	\$1,350.00
45.	Furnish & Install Reinforcing Rod #4's	100	lin.ft.	\$2.00	\$200.00	\$1.25	\$125.00
46.	Furnish & Install Drilled-In Tie Bars - #6x12"	3,850	ea.	\$7.75	\$29,837.50	\$9.00	\$34,650.00
47.	Furnish & Install Smooth Dowels - #8x18"	180	ea.	\$15.00	\$2,700.00	\$13.00	\$2,340.00
48.	Furnish & Install Dowel Basket Assembly	96	lin.ft.	\$25.00	\$2,400.00	\$20.00	\$1,920.00
49.	Furnish Terrace Restoration	40	sq.yds.	\$9.75	\$390.00	\$8.00	\$320.00
50.	Adjust Storm Manhole Casting	4	ea.	\$325.00	\$1,300.00	\$300.00	\$1,200.00
51.	Adjust Storm Inlet Casting	5	ea.	\$325.00	\$1,625.00	\$300.00	\$1,500.00
52.	Adjust Sanitary MH Casting	2	ea.	\$375.00	\$750.00	\$300.00	\$600.00
53.	Furnish & Install Storm Manhole Casting	1	ea.	\$650.00	\$650.00	\$600.00	\$600.00
54.	Furnish & Install "C" Inlet Casting	1	ea.	\$650.00	\$650.00	\$700.00	\$700.00
55.	Furnish & Install "E" Inlet Casting	1	ea.	\$750.00	\$750.00	\$700.00	\$700.00
56.	Furnish & Install Sanitary Manhole Casting	2	ea.	\$650.00	\$1,300.00	\$700.00	\$1,400.00
57.	Rebuild Inlet	2	ea.	\$3,150.00	\$6,300.00	\$2,500.00	\$5,000.00
58.	Furnish & Install 10", 12" Inlet Lead	30	lin.ft.	\$135.00	\$4,050.00	\$70.00	\$2,100.00
59.	Furnish & Install Type "D-HR" Inlet Protection	20	ea.	\$75.00	\$1,500.00	\$75.00	\$1,500.00
60.	Furnish & Maintain Traffic Controls for Arterial/Collector	4	ea.	\$900.00	\$3,600.00	\$1,000.00	\$4,000.00
	Work in Travel Lane (pp.25 TTC)						
61.	Furnish & Maintain Traffic Controls for Arterial/Collector	6	ea.	\$1,050.00	\$6,300.00	\$1,100.00	\$6,600.00
	Half Road Closure (PP.26 TTC)						
62.	Furnish Traffic Control for Detour of Arterial/Collector	4	ea.	\$1,600.00	\$6,400.00	\$2,000.00	\$8,000.00
	(pp.29 TTC)						
63.	Traffic Control - College Ave.	1	lump sum	\$8,500.00	\$8,500.00	\$15,000.00	\$15,000.00
64.	Furnish & Maintain Message Board	40	day	\$110.00	\$4,400.00	\$100.00	\$4,000.00
65.	Furnish and Install Temporary Handicap Curb Ramps - College Ave.	14	ea.	\$375.00	\$5,250.00	\$200.00	\$2,800.00
				\$699,997.00		\$725,734.00	

**CITY OF APPLETON**  
**Department of Public Works**  
**MEMORANDUM**

**TO:**  **Finance Committee**  
 **Municipal Services Committee**  
 **Utilities Committee**

**SUBJECT: Award of Contract**

**The Department of Public Works recommends that the following described work:**

Unit Y-19 Sewer & Water (Re)construction #3

**Be awarded to:**

Name: Van Straten Construction Co.  
Address: 2117 S. Oneida St.  
Green Bay, WI 54304

**In the amount of :** \$1, 581, 773.00

**With a 5% % contingency of :** \$79,088.65

**For a project total not to exceed :** \$ 1,660.861.65

**\*\* OR \*\***

**In an amount Not To Exceed :** \_\_\_\_\_

Budget: \$1,878,500.00  
Estimate: \$1,848,360.00  
Committee Date: 03/25/19  
Council Date: 04/03/19

Unit Y-19

Monday, March 11, 2019

ITEM	DESCRIPTION	Units	Quantity	Van Straten		Dorner, Inc.		Advance Construction	
				Unit Price	Total	Unit Price	Total	Unit Price	Total
1.	16" Water Main	lin ft	30	\$150.00	\$4,500.00	\$265.00	\$7,950.00	\$339.00	\$10,170.00
2.	12" Water Main	lin ft	215	\$90.00	\$19,350.00	\$134.00	\$28,810.00	\$180.00	\$38,700.00
3.	8" Water Main	lin ft	5360	\$60.00	\$321,600.00	\$95.00	\$509,200.00	\$104.00	\$557,440.00
4.	6" Hydrant Lead	lin ft	180	\$60.00	\$10,800.00	\$105.00	\$18,900.00	\$75.00	\$13,500.00
5.	Hydrant	ea.	7	\$4,000.00	\$28,000.00	\$3,839.00	\$26,873.00	\$4,151.00	\$29,057.00
6.	16" Gate Valve w/box	ea.	2	\$7,500.00	\$15,000.00	\$6,916.00	\$13,832.00	\$6,628.00	\$13,256.00
7.	12" Gate Valve w/box	ea.	3	\$3,500.00	\$10,500.00	\$2,597.00	\$7,791.00	\$2,479.00	\$7,437.00
8.	8" Gate Valve w/box	ea.	29	\$2,000.00	\$58,000.00	\$1,577.00	\$45,733.00	\$1,496.00	\$43,384.00
9.	6" Gate Valve w/box	ea.	10	\$1,500.00	\$15,000.00	\$1,125.00	\$11,250.00	\$1,078.00	\$10,780.00
10.	12" Bend	ea.	4	\$500.00	\$2,000.00	\$615.00	\$2,460.00	\$579.00	\$2,316.00
11.	8" Bend	ea.	45	\$200.00	\$9,000.00	\$306.00	\$13,770.00	\$308.00	\$13,860.00
12.	6" Bend	ea.	5	\$200.00	\$1,000.00	\$235.00	\$1,175.00	\$225.00	\$1,125.00
13.	1 1/2" Service	lin ft	10	\$25.00	\$250.00	\$159.00	\$1,590.00	\$131.00	\$1,310.00
14.	1" Service	lin ft	1190	\$25.00	\$29,750.00	\$80.00	\$95,200.00	\$83.00	\$98,770.00
15.	Service Connection	ea.	97	\$400.00	\$38,800.00	\$560.00	\$54,320.00	\$532.00	\$51,604.00
16.	Curb Box (Complete)	ea.	97	\$400.00	\$38,800.00	\$224.00	\$21,728.00	\$290.00	\$28,130.00
17.	10" Sanitary Sewer Main	lin ft	2020	\$75.00	\$151,500.00	\$121.00	\$244,420.00	\$126.00	\$254,520.00
18.	8" Sanitary Sewer Main	lin ft.	1810	\$75.00	\$135,750.00	\$120.00	\$217,200.00	\$126.00	\$228,060.00
19.	4" 1/8" Sanitary Lateral	lin ft	2490	\$45.00	\$112,050.00	\$86.00	\$214,140.00	\$91.00	\$226,590.00
20.	Sanitary Lateral Reconnect	ea.	82	\$250.00	\$20,500.00	\$279.00	\$22,878.00	\$162.00	\$13,284.00
21.	Sanitary Manhole	vert. ft.	90	\$400.00	\$36,000.00	\$268.00	\$24,120.00	\$262.00	\$23,580.00
22.	Sanitary Manhole Casting	ea.	7	\$600.00	\$4,200.00	\$435.00	\$3,045.00	\$467.00	\$3,269.00
23.	Adjust Sanitary Manhole Casting	ea.	1	\$500.00	\$500.00	\$100.00	\$100.00	\$300.00	\$300.00
24.	12" Storm Sewer Main	lin ft	1120	\$55.00	\$61,600.00	\$73.00	\$81,760.00	\$97.00	\$108,640.00
25.	8" Storm lateral	lin ft	45	\$55.00	\$2,475.00	\$76.00	\$3,420.00	\$76.00	\$3,420.00
26.	6" Storm lateral	lin ft	1380	\$45.00	\$62,100.00	\$65.00	\$89,700.00	\$43.50	\$60,030.00
27.	Storm lateral connection	ea.	32	\$260.00	\$8,320.00	\$491.00	\$15,712.00	\$159.00	\$5,088.00
28.	Std. Storm Manhole	vert. ft.	33	\$300.00	\$9,900.00	\$248.00	\$8,184.00	\$417.00	\$13,761.00
29.	Storm Manhole Casting	ea.	5	\$600.00	\$3,000.00	\$417.00	\$2,085.00	\$450.00	\$2,250.00
30.	Adjust Storm Manhole Casting	ea.	2	\$500.00	\$1,000.00	\$100.00	\$200.00	\$300.00	\$600.00
31.	Aggregate Slurry	cu.yd.	470	\$75.00	\$35,250.00	\$80.00	\$37,600.00	\$85.00	\$39,950.00
32.	8" Concrete Pavement (3 day HE)	sq.yd.	340	\$100.00	\$34,000.00	\$79.00	\$26,860.00	\$83.00	\$28,220.00
33.	7" Concrete Pavement (3 day HE)	sq.yd.	125	\$80.00	\$10,000.00	\$75.00	\$9,375.00	\$79.00	\$9,875.00
34.	3" Asphalt Pavement - Pershing St.	sq.yd.	25	\$20.00	\$500.00	\$20.00	\$500.00	\$40.00	\$1,000.00
35.	4" Concrete Sidewalk - Pershing St	sq. ft.	50	\$20.00	\$1,000.00	\$7.00	\$350.00	\$8.00	\$400.00
36.	30" Concrete Curb & Gutter - Pershing St.	lin ft.	20	\$75.00	\$1,500.00	\$51.00	\$1,020.00	\$55.00	\$1,100.00
37.	Asphalt surfacing	lump sum	1	\$200,000.00	\$200,000.00	\$226,144.00	\$226,144.00	\$181,085.00	\$181,085.00
38.	Extra Stone Bedding	ton	300	\$0.01	\$3.00	\$18.00	\$5,400.00	\$28.00	\$8,400.00
39.	Contaminated Soil Removal	ton	50	\$20.00	\$1,000.00	\$35.00	\$1,750.00	\$50.00	\$2,500.00
40.	Type "D-HR" Inlet Protection	ea	46	\$100.00	\$4,600.00	\$100.00	\$4,600.00	\$85.00	\$3,910.00
41.	Temporary Traffic Control	lump sum	1	\$75,000.00	\$75,000.00	\$35,625.00	\$35,625.00	\$76,345.00	\$76,345.00
42.	Message Board	day	40	\$75.00	\$3,000.00	\$76.00	\$3,040.00	\$200.00	\$8,000.00
43.	Pavement Marking Crosswalk (White Epoxy - 6")	lin ft	80	\$35.00	\$2,800.00	\$35.00	\$2,800.00	\$34.00	\$2,720.00
44.	Pavement Marking Stop Line (White Epoxy - 18"/24')	lin ft	25	\$75.00	\$1,875.00	\$76.00	\$1,900.00	\$75.00	\$1,875.00
				\$1,581,773.00		\$2,144,510.00		\$2,229,611.00	

SEWER & WATERMAIN RECONSTRUCTION NO.3

Unit Y-19

Monday, March 11, 2019

ITEM	DESCRIPTION	Units	Quantity	Kruczek Construction		PTS Contractors		Carl Bowers & Sons	
				Unit Price	Total	Unit Price	Total	Unit Price	Total
1.	16" Water Main	lin ft	30	\$300.00	\$9,000.00	\$450.00	\$13,500.00	\$350.00	\$10,500.00
2.	12" Water Main	lin ft	215	\$155.00	\$33,325.00	\$206.00	\$44,290.00	\$150.00	\$32,250.00
3.	8" Water Main	lin ft	5360	\$114.00	\$611,040.00	\$110.00	\$589,600.00	\$122.00	\$653,920.00
4.	6" Hydrant Lead	lin ft	180	\$96.00	\$17,280.00	\$150.00	\$27,000.00	\$126.00	\$22,680.00
5.	Hydrant	ea.	7	\$4,200.00	\$29,400.00	\$3,800.00	\$26,600.00	\$5,500.00	\$38,500.00
6.	16" Gate Valve w/box	ea.	2	\$8,300.00	\$16,600.00	\$6,880.00	\$13,760.00	\$8,000.00	\$16,000.00
7.	12" Gate Valve w/box	ea.	3	\$2,800.00	\$8,400.00	\$2,525.00	\$7,575.00	\$3,100.00	\$9,300.00
8.	8" Gate Valve w/box	ea.	29	\$1,675.00	\$48,575.00	\$1,540.00	\$44,660.00	\$1,800.00	\$52,200.00
9.	6" Gate Valve w/box	ea.	10	\$1,200.00	\$12,000.00	\$1,120.00	\$11,200.00	\$1,400.00	\$14,000.00
10.	12" Bend	ea.	4	\$725.00	\$2,900.00	\$610.00	\$2,440.00	\$650.00	\$2,600.00
11.	8" Bend	ea.	45	\$285.00	\$12,825.00	\$340.00	\$15,300.00	\$350.00	\$15,750.00
12.	6" Bend	ea.	5	\$200.00	\$1,000.00	\$259.00	\$1,295.00	\$300.00	\$1,500.00
13.	1 1/2" Service	lin ft	10	\$178.00	\$1,780.00	\$232.00	\$2,320.00	\$120.00	\$1,200.00
14.	1" Service	lin ft	1190	\$97.00	\$115,430.00	\$132.00	\$157,080.00	\$94.00	\$111,860.00
15.	Service Connection	ea.	97	\$335.00	\$32,495.00	\$520.00	\$50,440.00	\$350.00	\$33,950.00
16.	Curb Box (Complete)	ea.	97	\$185.00	\$17,945.00	\$517.00	\$50,149.00	\$350.00	\$33,950.00
17.	10" Sanitary Sewer Main	lin ft	2020	\$118.00	\$238,360.00	\$130.00	\$262,600.00	\$160.00	\$323,200.00
18.	8" Sanitary Sewer Main	lin ft.	1810	\$117.00	\$211,770.00	\$140.00	\$253,400.00	\$150.00	\$271,500.00
19.	4"/6" Sanitary Lateral	lin ft	2490	\$100.00	\$249,000.00	\$145.00	\$361,050.00	\$105.00	\$261,450.00
20.	Sanitary Lateral Reconnect	ea.	82	\$185.00	\$15,170.00	\$568.00	\$46,576.00	\$300.00	\$24,600.00
21.	Sanitary Manhole	vert. ft.	90	\$230.00	\$20,700.00	\$317.00	\$28,530.00	\$400.00	\$36,000.00
22.	Sanitary Manhole Casting	ea.	7	\$465.00	\$3,255.00	\$660.00	\$4,620.00	\$700.00	\$4,900.00
23.	Adjust Sanitary Manhole Casting	ea.	1	\$300.00	\$300.00	\$640.00	\$640.00	\$600.00	\$600.00
24.	12" Storm Sewer Main	lin ft	1120	\$60.00	\$67,200.00	\$100.00	\$112,000.00	\$80.00	\$89,600.00
25.	8" Storm lateral	lin ft	45	\$58.00	\$2,610.00	\$115.00	\$5,175.00	\$70.00	\$3,150.00
26.	6" Storm lateral	lin ft	1380	\$53.00	\$73,140.00	\$70.00	\$96,600.00	\$52.00	\$71,760.00
27.	Storm lateral connection	ea.	32	\$200.00	\$6,400.00	\$385.00	\$12,320.00	\$500.00	\$16,000.00
28.	Std. Storm Manhole	vert. ft.	33	\$375.00	\$12,375.00	\$468.00	\$15,444.00	\$350.00	\$11,550.00
29.	Storm Manhole Casting	ea.	5	\$465.00	\$2,325.00	\$740.00	\$3,700.00	\$500.00	\$2,500.00
30.	Adjust Storm Manhole Casting	ea.	2	\$300.00	\$600.00	\$603.00	\$1,206.00	\$600.00	\$1,200.00
31.	Aggregate Slurry	cu.yd.	470	\$115.00	\$54,050.00	\$90.00	\$42,300.00	\$110.00	\$51,700.00
32.	6" Concrete Pavement (3 day HE)	sq.yd.	340	\$110.00	\$37,400.00	\$82.00	\$27,880.00	\$93.00	\$31,620.00
33.	7" Concrete Pavement (3 day HE)	sq.yd.	125	\$92.00	\$11,500.00	\$76.00	\$9,500.00	\$83.00	\$10,375.00
34.	3" Asphalt Pavement - Pershing St.	sq.yd.	25	\$75.00	\$1,875.00	\$26.00	\$650.00	\$40.00	\$1,000.00
35.	4" Concrete Sidewalk - Pershing St	sq. ft.	50	\$50.00	\$2,500.00	\$7.00	\$350.00	\$10.00	\$500.00
36.	30" Concrete Curb & Gutter - Pershing St.	lin ft.	20	\$75.00	\$1,500.00	\$52.00	\$1,040.00	\$75.00	\$1,500.00
37.	Asphalt surfacing	lump sum	1	\$200,000.00	\$200,000.00	\$232,440.00	\$232,440.00	\$218,000.00	\$218,000.00
38.	Extra Stone Bedding	ton	300	\$10.00	\$3,000.00	\$25.00	\$7,500.00	\$20.00	\$6,000.00
39.	Contaminated Soil Removal	ton	50	\$20.00	\$1,000.00	\$32.00	\$1,600.00	\$40.00	\$2,000.00
40.	Type "D-HR" Inlet Protection	ea	46	\$125.00	\$5,750.00	\$105.00	\$4,830.00	\$100.00	\$4,600.00
41.	Temporary Traffic Control	lump sum	1	\$33,653.33	\$33,653.33	\$14,750.00	\$14,750.00	\$25,000.00	\$25,000.00
42.	Message Board	day	40	\$75.00	\$3,000.00	\$78.00	\$3,120.00	\$150.00	\$6,000.00
43.	Pavement Marking Crosswalk (White Epoxy - 6")	lin ft	80	\$36.00	\$2,880.00	\$35.00	\$2,800.00	\$30.00	\$2,400.00
44.	Pavement Marking Stop Line (White Epoxy - 18"/24'	lin ft	25	\$77.00	\$1,925.00	\$78.00	\$1,950.00	\$120.00	\$3,000.00
				\$2,233,233.33		\$2,611,780.00		\$2,531,865.00	



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

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**TO:** Finance Committee

**FROM:** Tony Saucerman, Finance Director

**DATE:** March 22, 2019

**RE:** Request Approval of Additional 2018 Budget Adjustments

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At the March 11, 2019 Finance Committee meeting, the committee approved a series of 2018 Budget adjustments which were meant to be the final adjustments necessary for 2018. In preparing for the annual audit, it was discovered that an additional adjustment was necessary in order to bring the TIF 7 budget into compliance. Therefore, I am requesting the approval of an additional 2018 Budget adjustment.

TIF 7 Fund

TIF 7 boundaries are basically the former Valley Fair shopping center site on the City's south side. The TIF is considered a "developer funded" TIF whereby the developer pays for the costs of the improvements and is paid back by a portion of the increased property tax revenues generated from the increased property values. The excess expenditures in 2018 represent increased developer payments due to a higher than projected equalized value on the property.

Thank you for your consideration of these budget adjustments. As always, feel free to contact me if you have questions.



Date: March 21, 2019

To: City of Appleton Common Council  
Fox Cities Transit Commission

From: Ron McDonald *REM*

**Award Recommendation to Replace Scheduling & Dispatch Software**

**BACKGROUND**

Valley Transit owns scheduling and dispatch software, which is used by staff and our paratransit contractor (Running Inc) to manage daily demand response trips. The software manages data for rides provided under four transportation services/programs: Valley Transit II; Senior Transportation Service; The Connector; and Outagamie County Human Services Transportation. Valley Transit staff uses the software to enter eligible riders, track data from each ride, view reports and monitor services provided by Running Inc. Running Inc uses the software to determine the eligibility of each requested trip, record trip reservations and produce daily manifests for each vehicle. The current software, called NOVUS – PASS, was purchased in 2001 and has surpassed its useful life. This software has many weaknesses that are expected from a product that is nearly 2 decades old. For example, the system does not use in-vehicle tablets, which severely limits the resulting data, does not provide vehicle tracking, cannot support real-time adjustments to vehicle manifests and reduces the overall effectiveness of the service.

In preparation for this procurement, Valley Transit staff began formulating a request for proposal (RFP) to solicit contractors to provide a new scheduling and dispatch software product. As part of this process staff reviewed RFP documents used by other transit systems that recently purchased similar software. The scope of work also took into consideration lessons learned from the previous software. Valley Transit required a software solution that was easy for staff to maintain and included the following features: cloud-based server; onboard tablet; improved reporting; increased on-time performance; increased install and acceptance terms; and proven success at similar sized transit systems. All of these issues were incorporated into the RFP document for consideration and review during the evaluation process.

The RFP document was sent directly to vendors who were known demand response software suppliers; posted on the State of Wisconsin's Vendornet system; and advertised online with the *Post-Crescent* and *Passenger Transport* (transit publication). Proposals were due on February 27, 2019. Three proposals were received: Ecolane USA, Inc. (Wayne, PA); CTS (Swansboro, NC); and HBSS (Lowell, MA). All proposals met the mandatory requirements in response to the RFP.



## **ANALYSIS**

An evaluation team was assembled to review the proposals. Each proposal was evaluated by the evaluation team based on the proposed solution, experience/qualifications, technical support, training & price. City of Appleton IT and planning/GIS staff were consulted on the system specification and applicable elements within each proposal received. The evaluation team agreed that one of the three vendors was able to move forward with the evaluation. This vendor was then invited to a demonstration and interview on March 14, 2019. After considering all factors, the evaluation team unanimously concluded that Ecolane USA, Inc. (Wayne, PA) had proposed the best solution for Valley Transit.

Ecolane's scheduling and dispatch software is used by over 150 transit agencies in 25 states, including three properties in Wisconsin. All references checked came back with very positive comments and all cite a track record of continual service improvements (rides/hour) resulting from use of Ecolane's software.

A summary of the tools & features of the new system includes: cloud-based server; data security measures; effective training & support; web interface for all browsers; detailed client screen; GTFS interface (displays when bus is better option); vehicle tracking; detailed reports & ability to create ad-hoc reports; administrative software with custom user permissions; and access to data in established reports or raw format.

## **FISCAL IMPACT**

Valley Transit's 2019 budget includes \$250,000 for this project. The project will have a total year-one fiscal impact of \$188,074, which is 25% under budget. The project includes an additional support agreement for project years 2-5 with an annual fee of \$7,399.68.

## **RECOMMENDATION**

Staff recommends authorization for Valley Transit to enter into a 5-year contract with Ecolane USA, Inc. to provide Scheduling & Dispatch Software according to the amounts listed above.



**ADOPTED: April 3, 2019**  
**PUBLISHED: April 8, 2019**  
Office of the City Clerk

**36-19**

**AN ORDINANCE AMENDING SECTION 19-5 OF CHAPTER 19 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO THE ERECTION OF OFFICIAL TRAFFIC SIGNS AND SIGNALS.**

(Municipal Services Committee 3/20/2019)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Section 19-5 of Chapter 19 of the Municipal Code of the City of Appleton, relating to the erection of official traffic signs and signals, is hereby created as follows:

**INSTALL STOP SIGNS ON:**

Washington Street at Bennett Street

**Section 2:** This Ordinance shall be in full force and effect from and after its passage and publication, and upon its passage and publication, the Traffic Engineer is authorized and directed to erect and maintain the appropriate standard traffic signs, signals and markings, giving notice of the provisions of this Ordinance.

**37-19**

**AN ORDINANCE AMENDING SECTION 19-86 OF CHAPTER 19 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PARKING RESTRICTIONS.**

(Municipal Services Committee 3/20/2019)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Section 19-86 of Chapter 19 of the Municipal Code of the City of Appleton, relating to parking restrictions, is hereby repealed:

*Ord. 18-78:* “15 minute parking from 9:00 a.m. to 9:00 p.m. on the east side of Wayne Street from 15' north of the north right-of-way line of Wisconsin Avenue extending north for 63'.)”

**Section 2:** This ordinance shall be in full force and effect from and after its passage and publication, and upon its passage and publication, the Traffic Engineer is authorized and directed to make the necessary changes in the Parking District Map in accordance with this Ordinance.

### **38-19**

**AN ORDINANCE AMENDING SECTION 19-86 OF CHAPTER 19 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PARKING RESTRICTIONS.**  
(Municipal Services Committee 3/20/2019)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Section 19-86 of Chapter 19 of the Municipal Code of the City of Appleton, relating to parking restrictions, is hereby repealed:

*Ord. 31-73:* “Parking be restricted to two hours on both sides of North Bennett Street from West College Avenue to West Franklin Street between the hours of 7:00 a.m. to 7:00 p.m., Sundays and Holidays excepted.”

**Section 2:** This ordinance shall be in full force and effect from and after its passage and publication, and upon its passage and publication, the Traffic Engineer is authorized and directed to make the necessary changes in the Parking District Map in accordance with this Ordinance.

### **39-19**

**AN ORDINANCE AMENDING SECTION 19-5 OF CHAPTER 19 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO THE ERECTION OF OFFICIAL TRAFFIC SIGNS AND SIGNALS.**  
(Municipal Services Committee 3/20/2019)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Section 19-5 of Chapter 19 of the Municipal Code of the City of Appleton, relating to the erection of official traffic signs and signals, is hereby created as follows:

**INSTALL ALL-WAY STOP CONTROL:**

Cedar Street / Mason Street Intersection

**Section 2:** This Ordinance shall be in full force and effect from and after its passage and publication, and upon its passage and publication, the Traffic Engineer is authorized and directed to erect and maintain the appropriate standard traffic signs, signals and markings, giving notice of the provisions of this Ordinance.

**40-19**

**AN ORDINANCE AMENDING SECTION 19-86 OF CHAPTER 19 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PARKING RESTRICTIONS.**

(Municipal Services Committee 3/20/2019)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Section 19-86 of Chapter 19 of the Municipal Code of the City of Appleton, relating to parking restrictions, is hereby created as follows. This ordinance supersedes and repeals any conflicting ordinance regarding parking in the designated area.

Parking be prohibited on Evergreen Drive from Haymeadow Avenue to Meade Street.

**Section 2:** This ordinance shall be in full force and effect from and after its passage and

publication, and upon its passage and publication, the Traffic Engineer is authorized and directed to make the necessary changes in the Parking District Map in accordance with this Ordinance.

41-19

AN ORDINANCE CREATING DIVISION 2 OF CHAPTER 16 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO WIRELESS TELECOMMUNICATIONS FACILITIES IN THE RIGHT-OF-WAY (SMALL CELL).

(Municipal Services Committee 3/20/2019)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Division 2 of Chapter 16 of the Municipal Code of the City of Appleton, relating to wireless telecommunications facilities in the right-of-way (small cell), is hereby created to read as follows:

**DIVISION 2. WIRELESS TELECOMMUNICATIONS FACILITIES  
IN THE RIGHT-OF-WAY (SMALL CELL)**

**Sec. 16-135. Definitions.**

For the purposes of this Chapter, the terms below shall have the following meanings:

***Administrator*** means the Director of Public Works or his or her designee.

***Application*** means a formal request, including all required and requested documentation and information, submitted by an Applicant to the City for a wireless permit.

***Applicant*** means a person filing an application for placement or modification of a wireless telecommunications facility in the right-of-way.

***Base Station*** means the same as in 47 C.F.R. § 1.6100(b)(1), which defines the term to mean a structure or wireless telecommunications equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. This definition does not include towers.

***Eligible Facilities Request*** means the same as in 47 C.F.R. § 1.6100(b)(3), which defines the term to mean any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

**FCC** means the Federal Communications Commission.

**Right-of-way** means the surface of, and the space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane, landscape terrace, shoulder, side slope, and public sidewalk over which the City exercises any rights of management and control or in which the City has an interest.

**Small Wireless Facility** consistent with 47 C.F.R. § 1.6002(l), means a facility that meets each of the following conditions:

- (1) The structure on which antenna facilities are mounted:
  - i. is 50 feet or less in height, or
  - ii. is no more than 10 percent taller than other adjacent structures, or
  - iii. is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height, whichever is greater, as a result of the collocation of new antenna facilities;
- (2) Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is cumulatively no more than 28 cubic feet in volume;
- (4) The facility does not require antenna structure registration;
- (5) The facility is not located on Tribal lands; and
- (6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by federal law.

**Support structure** means any structure capable of supporting wireless telecommunications equipment.

**Tower** means the same as in 47 C.F.R. § 1.6100(b)(9), which defines the term as any structure built for the sole or primary purpose of supporting any Federal Communication Commission (FCC) licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.

***Underground areas*** means those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right-of-way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages more than 35,000 volts.

***Utility pole*** means a structure in the right-of-way designed to support electric, telephone, and similar utility distribution lines and associated equipment. A tower is not a utility pole.

***Wireless Infrastructure Provider*** means a person that owns, controls, operates, or manages a wireless telecommunications facility or portion thereof within the right-of-way.

***Wireless permit*** or ***permit*** means a permit issued pursuant to this Chapter and authorizing the placement or modification of a wireless telecommunications facility of a design specified in the permit at a particular location within the right-of-way, and the modification of any existing support structure to which the wireless telecommunications facility is proposed to be attached.

***Wireless regulations*** means those regulations adopted pursuant to Sec. 16-139(b)(1) to implement the provisions of this Chapter.

***Wireless Service Provider*** means an entity that provides wireless services to end users.

***Wireless Telecommunications Equipment*** means equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network.

***Wireless Telecommunications Facility*** or ***Facility*** means a facility at a fixed location in the right-of-way consisting of a base station, antennas and other accessory equipment, and a tower and underground wiring, if any, associated with the base station.

Definitions in this Section may contain quotations or citations to 47 C.F.R. §§ 1.6100 and 1.6002. In the event that any referenced section is amended, creating a conflict between the definition as set forth in this Chapter and the amended language of the referenced section, the definition in the referenced section, as amended, shall control.

### **Sec. 16-136. Purpose.**

In the exercise of its police powers, the City has priority over all other uses of the right-of-way. Notwithstanding other Right-of-Way Management requirements of this Article, the purpose of this Chapter is to provide the City with a process for managing, and uniform standards for acting upon, requests for the placement of wireless telecommunications facilities within the right-of-way consistent with the City's obligation to promote the public health, safety, and welfare; to manage the right-of-way; and to ensure that the public's use is not obstructed or incommoded by the use of the right-of-way for the placement of wireless telecommunications facilities. The City recognizes the

importance of wireless telecommunications facilities to provide high-quality communications and internet access services to residents and businesses within the City. The City also recognizes its obligation to comply with applicable Federal and State laws regarding the placement of wireless telecommunications facilities in the right-of-way including, without limitation, the Telecommunications Act of 1996 (47 U.S.C. § 151 et seq), Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Wis. Stat. § 182.017, and Wis. Stat. § 196.58, and this Chapter shall be interpreted consistent with those provisions.

**Sec. 16-137. Scope.**

(a) ***Applicability.*** Unless exempted by Section (b), below, every person who wishes to place a wireless telecommunications facility in the right-of-way or modify an existing wireless telecommunications facility in the right-of-way must obtain a wireless permit under this Chapter.

(b) ***Exempt Facilities.*** The provisions of this Chapter (other than Secs. 16-144 to 16-148) shall not be applied to applications for the following:

- (1) Installation of a small wireless facility on the strand between two utility poles, provided that the cumulative volume of all wireless facilities on the strand shall not exceed 1 cubic foot, and provided further that the installation does not require replacement of the strand, or excavation, modification, or replacement of either of the utility poles.
- (2) Installation of a mobile cell facility (commonly referred to as “cell on wheels” or “cell on truck”) for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.
- (3) Placement or modification of a wireless telecommunications facility on structures owned by or under the control of the City. See Sec. 16-147 of this Chapter.
- (4) Placement or modification of a wireless telecommunications facility by City staff or any person performing work under contract with the City.
- (5) Modification of an existing wireless telecommunications facility that makes no material change to the footprint of a facility or to the surface or subsurface of a public street if the activity does not disrupt or impede traffic in the traveled portion of a street, and if the work does not change the visual or audible characteristics of the wireless telecommunications facility.



**Sec. 16-138. Nondiscrimination.**

In establishing the rights, obligations, and conditions set forth in this Chapter, it is the intent of the City to treat each applicant and right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, while taking into account the unique technologies, situation, and legal status of each applicant or request for use of the right-of-way.

**Sec. 16-139. Administration.**

- (a) **Administrator.** The Administrator is responsible for administering this Chapter.
- (b) **Powers.** As part of the administration of this Chapter, the Administrator may:
  - (1) Adopt wireless regulations governing the placement and modification of wireless telecommunications facilities in addition to but consistent with the requirements of this Chapter, including regulations governing collocation, the resolution of conflicting applications for placement of wireless telecommunications facilities, and aesthetic standards.
  - (2) Interpret the provisions of the Chapter and the wireless regulations.
  - (3) Develop forms and procedures for submission of applications for wireless permits consistent with this Chapter.
  - (4) Collect any fee required by this Chapter.
  - (5) Require, as a condition of completeness of any application, notice to members of the public that may be affected by the placement or modification of the wireless telecommunications facility that is the subject of the wireless permit application.
  - (6) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations.
  - (7) Issue notices of incompleteness or requests for information in connection with any wireless permit application.
  - (8) Select and retain an independent consultant or attorney with expertise in telecommunications to review any issue that involves specialized or expert knowledge in connection with any permit application.
  - (9) Coordinate and consult with other City staff, committees, and governing bodies to ensure timely action on all other required permits under Sec. 16-140(b)(8) of this Chapter.

- (10) Subject to appeal as provided in Sec. 16-142(d) of this Chapter, determine whether to grant, grant subject to conditions, or deny an application.
- (11) Take such other steps as may be required to timely act upon wireless permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

**Sec. 16-140. Application.**

(a) **Format.** Unless the wireless regulations provide otherwise, the applicant must submit both a paper copy and an electronic copy (in a searchable format) of any application, as well as any amendments or supplements to the application or responses to requests for information regarding an application, to the Administrator. An application is not complete until both the paper and electronic copies are received by the Administrator.

(b) **Content.** In order to be considered complete, an application must contain:

- (1) All information required pursuant to the wireless regulations.
- (2) A completed application cover sheet signed by an authorized representative of the applicant, listing all standard permit conditions.
- (3) The name of the applicant (including any corporate or trade name), and the name, address, email address, and telephone number of a local representative. If the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider(s) that will be using the wireless telecommunications facility must also be provided.
- (4) A statement of which shot clock or shot clocks apply to the application and the reasons the chosen shot clocks apply.
- (5) A separate and complete description of each proposed wireless telecommunications facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the facility and technical specifications for each element of the facility, clearly describing the site and all structures and facilities at the site before and after installation or modification and identifying the owners of such preexisting structures and facilities; and describing the distance to the nearest residential dwelling unit. Before and after 360-degree photo simulations must be provided for each facility.
- (6) Proof that the applicant has mailed to the owners of all property within 300 feet of the proposed wireless telecommunications facility a notice that the

applicant is submitting an application to the City for placement or modification of a wireless telecommunications facility in the right-of-way, which notice must include (i) the proposed location of the facility, (ii) a description and scale image of the proposed facility, and (iii) an email address and phone number for a representative of the applicant who will be available to answer questions from members of the public about the proposed project.

- (7) A copy of the FCC license for the facility or a sworn written statement from the applicant attesting that the facility will comply with current FCC regulations.
- (8) To the extent that filing of the wireless permit application establishes a deadline for action on any other permit that may be required in connection with the wireless telecommunications facility, the application must include complete copies of applications for every required permit (including without limitation electrical permits, building permits, traffic control permits, and excavation permits), with all engineering completed and with all fees associated with each permit.
- (9) A certification by a registered and qualified engineer that the installation can be supported by and does not exceed the tolerances of the structure on which it will be mounted and that all elements of the wireless telecommunications facility comply with applicable safety standards.
- (10) Payment of all required fees.
- (11) If an applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all evidence on which the applicant relies in support of that claim. Applicants are not permitted to supplement this evidence if doing so would prevent the City from complying with any deadline for action on an application.
- (12) If the application is an eligible facilities request, the application must contain information sufficient to show that the application qualifies as an eligible facilities request under 47 C.F.R. § 1.6100(b)(3), including evidence that the application relates to an existing tower or base station that has been approved by the City. Before and after 360-degree photo simulations must be provided with detailed specifications demonstrating that the modification does not substantially change the physical dimensions of the existing approved tower or base station.

(c) **Waivers.** Requests for waivers from any requirement of this section shall be made in writing to the Administrator. The Administrator may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of the waiver, the City will be provided with all information

necessary to understand the nature of the construction or other activity to be conducted pursuant to the wireless permit sought.

(d) **Fees.** Applicant must provide an application fee and shall be required to pay all costs reasonably incurred in reviewing the application, including costs incurred in retaining outside consultants. Fees shall be reviewed periodically and raised or lowered based on the costs the City expects to incur.

(e) **Public Records.** Applications are public records that may be made publicly available pursuant to state and federal public records law. Notwithstanding the foregoing, the applicant may designate portions of the application materials that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and the City shall endeavor to treat the information as proprietary and confidential, subject to applicable state and federal public records law and the Administrator's determination that the applicant's request for confidential or proprietary treatment of the application materials is reasonable. The City shall not be required to incur any costs to protect the application from disclosure.

#### **Sec. 16-141. General Standards.**

(a) **Generally.** Wireless telecommunications facilities shall meet the minimum requirements set forth in this Chapter and the wireless regulations, in addition to the requirements of any other applicable law or regulation.

(b) **Regulations.** The wireless regulations and decisions on wireless permits shall, at a minimum, ensure that the requirements of this Chapter are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of a telecommunications or personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Chapter and the wireless regulations may be waived, but only to the extent required to avoid the prohibition.

(c) **Standards.**

(1) Wireless telecommunications facilities shall be installed and modified in a manner that:

- a. Minimizes risks to public safety;
- b. Ensures that placement of facilities on existing structures is within the tolerance of those structures;
- c. Avoids placement of aboveground facilities in underground areas, installation of new support structures or equipment cabinets in the public right-of-way, or placement in residential areas when commercial areas are reasonably available;

- d. Maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;
  - e. Ensures that installations are subject to periodic review to minimize the intrusion on the right-of-way;
  - f. Ensures that the City bears no risk or liability as a result of the installations; and
  - g. Ensures that applicant's use does not inconvenience the public, interfere with the primary uses of the right-of-way, or hinder the ability of the City or other government entities to improve, modify, relocate, abandon, or vacate the right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right-of-way.
- (2) No wireless permit shall be issued unless (i) the wireless service provider applicant has immediate plans to use the proposed facility or (ii) the wireless infrastructure applicant has a contract with a wireless service provider that has immediate plans to use the proposed facility.
- (3) In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic and at all times must comply with the requirements of the Americans with Disabilities Act of 1990.

(d) ***Standard Permit Conditions.*** All wireless permits under this Chapter are issued subject to the following minimum conditions:

- (1) **Compliance.** The permit holder shall at all times maintain compliance with all applicable Federal, State, and local laws, regulations, and other rules.
- (2) **Term.** A wireless permit issued pursuant to an eligible facilities request shall expire at the same time the permit for the underlying existing wireless telecommunications facility expires. All other wireless permits shall be valid for a period of five years from the date of issuance unless revoked pursuant to Sec. 16-143(b) of this Chapter.
- (3) **Contact Information.** The permit holder shall at all times maintain with the City accurate contact information for the permit holder and all wireless service providers making use of the facility, which shall include a phone number, mailing address, and email address for at least one natural person.
- (4) **Emergencies.** The City shall have the right to support, repair, disable, or remove any elements of the facilities in emergencies or when the facility

threatens imminent harm to persons or property.

- (5) **Indemnities.** The permit holder, by accepting a permit under this Chapter, agrees to indemnify, defend, and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, and volunteers (collectively, the “Indemnified Parties”) from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys’ fees, costs, and expenses of whatsoever kind or nature in any manner caused in whole or in part, or claimed to be caused in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of the permit holder or anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on one or more of the Indemnified Parties. The obligation to indemnify, defend, and hold harmless the Indemnified Parties shall be applicable even if the liability results from an act or failure to act on the part of one or more of the Indemnified Parties. However, the obligation does not apply if the liability results from the willful misconduct of an Indemnified Party.
- (6) **Adverse Impacts on Adjacent Properties.** The permit holder shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.
- (7) **General maintenance.** The wireless communications facility and any associated structures shall be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.
- (8) **Graffiti Removal.** All graffiti on facilities shall be removed at the sole expense of the permit holder within 48 hours after notification from the City.
- (9) **Relocation.** At the request of the City pursuant to Sec. 16-144 of this Chapter, the permit holder shall promptly and at its own expense permanently remove and relocate any wireless telecommunications facility in the right-of-way.
- (10) **Abandonment.** The permit holder shall promptly notify the City whenever a facility has not been in use for a continuous period of 60 days or longer and must comply with Sec. 16-145 of this Chapter.
- (11) **Restoration.** A permit holder who removes or relocates a facility from the right-of-way must restore the right-of-way in accordance with Sec. 16-146 of this Chapter.
- (12) **Record Retention.** The permit holder shall retain full and complete copies

of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation all conditions of approval, approved plans, resolutions, and other documentation associated with the permit or regulatory approval. In the event the City cannot locate any such full and complete permits or other regulatory approvals in its official records, and the permit holder fails to retain full and complete records in the permit holder's files, any ambiguities or uncertainties that would be resolved through an examination of the missing documents will be conclusively resolved against the permit holder.

- (13) **Radio Frequency Emissions.** Every wireless facility shall at all times comply with applicable FCC regulations governing radio frequency emissions, and failure to comply with such regulations shall be treated as a material violation of the terms of the permit.
- (14) **Certificate of Insurance.** A certificate of insurance sufficient to demonstrate to the satisfaction of the Administrator that the applicant has the capability to cover any liability that might arise out of the presence of the facility in the right-of-way.

#### **Sec. 16-142. Application Processing and Appeal.**

(a) **Rejection for Incompleteness.** Notices of incompleteness shall be provided in conformity with state, local, and federal law, including 47 C.F.R. § 1.6003(d), as amended.

(b) **Processing Timeline.** Wireless permit applications (including applications for other permits under Sec. 16-140 necessary to place or modify the facility) and appeals will be processed in conformity with the shot clocks set forth in state, local, and federal law, as amended.

(c) **Written Decision.** In the event that an application is denied (or approved with conditions beyond the standard permit conditions set forth in Sec. 16-141(d)), the Administrator shall issue a written decision with the reasons therefor, supported by substantial evidence contained in a written record.

(d) **Appeal to Common Council.** Any person adversely affected by the decision of the Administrator may appeal that decision to the Common Council, which may decide the issues *de novo*, and whose written decision will be the final decision of the City. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless telecommunications facility.

(e) **Deadline to Appeal.**

- (1) Appeals that involve eligible facilities requests must be filed within three business days of the written decision of the Administrator.



- (2) All other appeals not governed by Sec. 16-142(e)(1), above, must be filed within ten business days of the written decision of the Administrator, unless the Administrator extends the time therefor. An extension may not be granted where extension would result in approval of the application by operation of law.

(d) **Decision Deadline.** All appeals shall be conducted so that a timely written decision may be issued in accordance with the applicable shot clock.

### **Sec. 16-143. Expiration and Revocation.**

(a) **Expiration.** A wireless permit issued pursuant to an eligible facilities request shall expire at the same time the permit for the underlying existing wireless telecommunications facility expires. All other wireless permits shall be valid for a period of five years from the date of issuance. Upon expiration of the wireless permit, the permit holder must either:

- (1) Remove the wireless telecommunications facility; or,
- (2) Submit an application to renew the permit at least 90 days prior to its expiration. The facility must remain in place until the renewal application is acted on by the City and any appeals from the City's decision are exhausted.

(b) **Revocation for Breach.** A wireless permit may be revoked for failure to comply with the conditions of the permit or applicable federal, state, or local laws, rules, or regulations. Upon revocation, the wireless telecommunications facility must be removed within 30 days of receipt of written notice from the City. All costs incurred by the City in connection with the revocation, removal, and right-of-way restoration shall be paid by the permit holder.

(c) **Failure to Obtain Permit.** Unless exempted from permitting by Sec. 16-137(b) of this Chapter, a wireless telecommunications facility installed without a wireless permit must be removed within 30 days of receipt of written notice from the City. All costs incurred by the City in connection with the notice, removal, and right-of-way restoration shall be paid by entities who own or control any part of the wireless telecommunications facility.

### **Sec. 16-144. Relocation.**

Except as otherwise prohibited by state or federal law, a permit holder must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate any of its wireless telecommunications facilities in the right-of-way whenever the City requests such removal and relocation. The City may make such a request to prevent the facility from interfering with a present or future City use of the right-of-way; a public improvement undertaken by the City; an economic development project in which the City has an interest or investment; when the public health, safety, or welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way. Notwithstanding the foregoing, a permit holder shall not be required to remove or relocate its facilities from any right-of-way that has been vacated

in favor of a non-governmental entity unless and until that entity pays the reasonable costs of removal or relocation to the permit holder.

**Sec. 16-145. Abandonment.**

(a) *Cessation of Use.* In the event that a permitted facility within the right-of-way is not in use for a continuous period of 60 days or longer, the permit holder must promptly notify the City and do one of the following:

- (1) Provide information satisfactory to the Administrator that the permit holder's obligations for its facilities under this Chapter have been lawfully assumed by another permit holder.
- (2) Submit to the Administrator a proposal and instruments for dedication of the facilities to the City. If a permit holder proceeds under this Sec. 16-145(a)(2), the City may, at its option:
  - a. Accept the dedication for all or a portion of the facilities;
  - b. Require the permit holder, at its own expense, to remove the facilities and perform the required restoration under Sec. 16-146; or
  - c. Require the permit holder to post a bond or provide payment sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the facilities and undertaking restoration under Sec. 16-146.
- (3) Remove its facilities from the right-of-way within one year and perform the required restoration under Sec. 16-146, unless the Administrator waives this requirement or provides a later deadline.

(b) *Abandoned Facilities.* Facilities of a permit holder who fails to comply with Sec. 16-145 and which, for one year, remain unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the City may, at its option:

- (1) abate the nuisance and recover the cost from the permit holder or the permit holder's successor in interest;
- (2) take possession of the facilities; and/or
- (3) require removal of the facilities by the permit holder or the permit holder's successor in interest.

**Sec. 16-146. Restoration.**

In the event that a permit holder removes or is required to remove a wireless telecommunications facility from the right-of-way under this Chapter (or relocate it pursuant to Sec. 16-144), the permit holder must restore the right-of-way to its prior condition in accordance with City specifications. However, a support structure owned by another entity authorized to maintain that support structure in the right-of-way need not be removed but must instead be restored to its prior condition. If the permit holder fails to make the restorations required by this Sec. 16-146, the City at its option may do such work. In that event, the permit holder shall pay to the City, within 30 days of billing therefor, the cost of restoring the right-of-way.

**Sec. 16-147. Placement on City-Owned or -Controlled Structures.**

The City may negotiate agreements for placement of wireless telecommunications facilities on City-owned or -controlled structures in the right-of-way. The agreement shall specify the compensation to the City for use of the structures. The person or entity seeking the agreement shall reimburse the City for all costs the City incurs in connection with its review of and action upon the request for an agreement.

**Sec. 16-148. Severability.**

If any section, subsection, clause, phrase, or portion of this Chapter is for any reason held to be illegal or otherwise invalid by any court or administrative agency of competent jurisdiction, such illegal or invalid portion shall be severable and shall not affect or impair any remaining portion of this Chapter, which shall remain in full force and effect.

**Section 2: This ordinance shall be in full force and effect from and after its passage and publication. 42-19**

AN ORDINANCE AMENDING ARTICLE IV OF CHAPTER 7 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO SMOKE FREE INDOOR AIR.

(Board of Health – 3/20/2019)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Article IV of Chapter 7 of the Municipal Code of the City of Appleton, relating to smoke free indoor air, is hereby amended to read as follows:

**ARTICLE IV. SMOKE FREE INDOOR AIR**

**Sec. 7-100. Smoking prohibited in certain areas.**

(a) *Definitions.*

***Bed and breakfast establishment*** has the meaning set forth in Sec. 9-321.

***Childcare facility*** means any state licensed or county certified child care facility including, but not limited to, licensed family day care or licensed group day care centers, licensed day camps, certified school-age programs and Head Start programs.

***City buildings*** means all City-owned and operated buildings and those portions of buildings leased and operated by the City.

***Common areas of buildings*** means all areas not part of a tenant's leased premises, including, but not limited to, lobbies, community rooms, hallways, laundry rooms, stairwells, elevators, enclosed parking facilities, pool areas and restrooms contiguous thereto.

***Common areas of malls*** means those areas within a mall customarily accessible to patrons.

***Educational facility*** means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

***Electronic smoking device*** means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component part, or accessory of such a device, whether or not sold separately. Electronic smoking device include any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

***Electronic smoking device paraphernalia*** means cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, electronic smoking device batteries, electronic smoking device chargers, and any other item specifically designed for the preparation, charging, or use of electronic smoking device.

***Employee*** means any person who is employed by any employer for direct or indirect monetary wages or profit, including those full time, part time, temporary or contracted for from a third party; employee also means any person who serves as a volunteer for a business or nonprofit entity.

***Employer*** means any person, partnership, limited liability company, corporation, or other entity, including a public or non-profit entity who employs the services of one (1) or more individual persons.

***Enclosed area*** means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from floor to ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, 'other landscaping' or similar structures.

**Entrance** means a doorway and adjacent area which gives direct access to a building from a contiguous street, plaza, sidewalk or parking lot.

**Health care facility** has the meaning set forth in Sec. 155.01(6), Wis. Stats.

**Hotel and motel** has the meaning set forth in Sec. 9-341.

**Incidental** means so minor in significance and non-essential to the primary use, purpose or operation that if the incidental use is discontinued, the primary purpose would continue without harm.

**Mall** means an enclosed, indoor area containing common areas and discrete businesses primarily devoted to the retail sale of goods and services.

**Medical services** has the meaning set forth in Sec. 647.01(6), Wis. Stats.

**Non-smoking** means smoking is prohibited.

**Person in charge** means the person who ultimately controls, governs or directs the activities aboard a public conveyance or within or at a place where smoking is regulated under this section, regardless of the person's status as owner or lessee.

**Place of employment** means an enclosed area controlled by the employer, which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a 'place of employment' within the meaning of this ordinance unless used as a childcare facility.

**Private residence** means premises owned, rented or leased by temporary or permanent habitation.

**Restaurant** means an establishment defined in Sec. 9-236.

**Retail tobacco store** means a business whose primary purpose is the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

**Room** means a space within a building completely enclosed with walls, partitions, floor and ceiling, except for openings for light, ventilation, ingress and egress.

**School board** means the school board in charge of the public schools, grades K-12, of a school district.

**Smokefree** means absence from the ambient air of the smoke by-product from the burning, inhaling, exhaling, or carrying of a lighted cigarette, cigar, pipe, weed or plant.

**Smoking** means inhaling, exhaling, burning, or carrying any lighted, heated or ignited cigar, cigarettes, cigarillo, pipe, hookah, Electronic Smoking Device, or any plant product intended for human inhalation.

**Sports arena** means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and indoor ice rinks, and bowling centers.

**Tavern** means any establishment whose primary purpose is the sale of fermented malt beverages or intoxicating liquors for consumption upon said premises and in which the sale of other products is merely incidental.

**Tobacco product** means a combustible cigarette, cigar, weed, plant or other combustible substance prepared in such a manner that it is suitable for smoking. This section shall not include smoke-free tobacco products.

**Use tobacco products** means to consume by burning, inhaling, exhaling or carrying a lighted cigarette, cigar, pipe, weed, plant, or any other combustible substance in any manner in any form.

(b) **Intent and purpose.**

(1) The Common Council of the City of Appleton hereby finds that:

- a. It is recognized that smoking of cigarettes and tobacco products is hazardous to an individual's health and may affect the health of nonsmokers when they are involuntarily in the presence of smoking.
- b. Numerous scientific studies have found that tobacco smoke is a major contributor to indoor pollution.
- c. Reliable scientific studies, including studies conducted by the Surgeon General of the United States, have shown that breathing sidestream or secondhand smoke is a significant health hazard to nonsmokers; particularly to children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.
- d. Health hazards induced by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, bronchoconstriction and bronchospasm.
- e. Reliable scientific studies assessed by the California Environmental Protection Agency have found that sidestream and secondhand tobacco smoke is a leading cause of premature death and disability

among nonsmokers.

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

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

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

- (1) Elevators and enclosed stairwells, including those within City parking ramps.
- (2) Public forms of transportation, including, but not limited to, motor buses, taxicabs, or other public passenger vehicles.
- (3) Theaters, libraries, museums, auditoriums, sports arenas, convention halls which are used by or open to the public.
- (4) Any childcare facility. Incorporated herein by reference are the following Wisconsin statutory and administrative code sections and any amendments or renumbering thereof: Sec. 101.123(1)(ad) and (2)(bm), Wis. Stats.; Secs. HFS 45.02(4), 45.06(8)(g), 46.03(13), 46.06(2)(h), and 46.08(2)(c), Wis. Adm. Code.
- (5) Retail stores.
- (6) Health care facilities.
- (7) Waiting rooms, hallways, rooms of health care laboratories.
- (8) Waiting rooms, hallways, rooms in offices of any physician, dentist, psychologist, chiropractor, optometrist or optician, or other medical services provider.
- (9) Meeting and conference rooms in which people gather for educational, business, professional, union, governmental, recreational, political or social purposes.
- (10) Polling places.



- (11) Service lobbies, waiting areas, and the common areas open to the public of financial institutions, business and professional offices, and multi-unit commercial facilities.
- (12) Self-service laundry facilities.
- (13) Enclosed, indoor areas of restaurants.
- (14) Common areas of malls.
- (15) Public bus and transfer point shelters.
- (16) Common areas of building which contain three (3) or more rental units. Written Rental Agreements shall include reference to this subdivision.
- (17) City buildings.
- (18) City-owned or leased motor vehicles.
- (19) Sports arenas.
- (20) Taverns.
- (21) Common areas in bed and breakfast establishments, hotels and motels.

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

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

(Ord 59-17, §1, 9-12-17)

- (2) Outside of the Appleton Public Library, on the sidewalk between the main entrance and public parking lot, extending from Appleton Street to Oneida Street.
- (3) Outside of the Transit Center in the area, inclusive of sidewalk area, from the north edge of the Transit Center building to Washington Street and from Oneida Street to the west edge of the East Parking Ramp.
- (4) City parks as posted and so designated by the Parks, Recreation and Facilities

Management Department. Additionally, smoking, vaping, and use of all electronic nicotine devices shall be prohibited within twenty (20) feet of playground equipment located within city parks as well as at the Appleton Skate Park located within Telulah Park.

(Ord 71-18, §1, 8-7-18)

(e) ***Prohibition of smoking in educational facilities.*** It shall be unlawful for any person to smoke or otherwise use any tobacco products:

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

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

- (1) It shall be unlawful for any person to smoke any tobacco products in all places of employment.
- (2) Every building which is a place of employment shall have at least one (1) entrance which is smokefree.
- (3) Each employer, operator, manager, lessee or other person having control of the place of employment shall make reasonable efforts to ensure a smokefree workplace for all employees and frequenters.
- (4) Within ninety (90) days of the effective date of this ordinance, each employer having a place of employment located within the City of Appleton shall adopt, implement and communicate written notice of the provisions of this ordinance to each employee.

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

- (1) Retail tobacco stores.
- (2) Any stage of any theater when used in connection with any theatrical performance and so noticed in the program.
- (3) Bed and breakfast, hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided that not more than twenty-five percent (25%) of the rooms rented to guests are designated as smoking.

(ga) ***Exceptions related to electronic smoking:***

- (1) The restrictions of this section relating to electronic smoking, electronic smoking device and electronic smoking device paraphernalia shall not apply

to businesses which do all of the following:

- a. Identification is checked at the entrance;
- b. No one under 18 years of age is permitted to enter the business;
- c. Sampling is permitted exclusively for non-combustible products.

(h) ***Enforcement.***

- (1) The Health Officer or designee and the Chief of Police or designee shall have the power, whenever they may deem it necessary, to enter upon the premises named in this section to ascertain whether the premises are in compliance with this ordinance. A compliance time of not less than one (1) week shall be granted. Enforcement may be by citation, as permitted by Sec. 1-16.
- (2) The proprietor, employer or other person in charge or premises regulated hereunder, upon either observing or being advised of a violation, shall make reasonable efforts to prevent smoking in prohibited areas by:
  - a. Approaching smokers who fail to voluntarily comply with this section and requesting that they extinguish their cigarette or tobacco product and refrain from smoking, or
  - b. Refusing service to anyone smoking in a prohibited area.
- (3) Any person who desires to register a complaint under this section may contact the Health Department or the Police Department.
- (4) Ashtrays, cigarette vending machines and other smoking paraphernalia shall not be located in areas where smoking is prohibited.

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

(j) ***Violations and penalties.***

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

(k) ***Clean indoor air.***

- (1) Intent and construction. The City of Appleton finds that it is in the interests of the health, safety and welfare of the community to adopt by reference Sec. 101.123, Wis. Stats. and subsequent amendments, additions and recodifications. It is the intent of the Common Council that where there may be conflict between Sec. 101.123, Wis. Stats. and Sec. 7-100, that the most restrictive section shall apply. This ordinance shall not be construed to mean that progressive discipline of City employees for violations of laws, rules and regulations is only authorized where explicitly provided by ordinance.
- (2) Penalty. The penalties provided by Sec. 101.123, Wis. Stats. shall be in addition to the penalties provided for violation of Sec. 7-100 when a person has violated both laws. In addition to the penalties provided by Sec. 7-100 and Sec. 101.123 Wis. Stats., any City employee who violates any provision of Sec. 7-100 or Sec. 101.123. Wis. Stats., may also be subject to progressive discipline by his or her employer.

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

(m) The provisions of this ordinance, in its entirety, shall become effective on July 1, 2005.  
(Ord 35-05, §1, effective 7-1-05)

**Section 2:** This ordinance shall be in full force and effect from and after its passage and publication.

**Resolution #1-R-19**  
**E-Cigarettes**

*Date: 02/06/2019*

*Submitted by: Alderperson Cathy Spears – District 12*

*Referred To: Board of Health*

Whereas, e-cigarettes are known by many different names. They are sometimes called “e-cigs”, “e-hookahs”, “mods”, “vape pens”, “vapes”, “tank systems”, and “electronic nicotine delivery systems”; and

Whereas, some e-cigarettes are made to look like regular cigarettes, cigars, or pipes. Some resemble pens, USB sticks, and other everyday items; and

Whereas, e-cigarettes produce an aerosol by heating a liquid that usually contains nicotine – the addictive drug in regular cigarettes, cigars, and other tobacco products, - flavorings, and other chemicals that help to make the aerosol. Users inhale this aerosol into their lungs. Bystanders can also breathe in this aerosol when the user exhales into the air; and

Whereas, e-cigarettes can be used to deliver marijuana and other drugs; and

Whereas, the CDC Report on e-cigarettes and electronic nicotine delivery systems reports that vaping clouds contain high levels of two chemicals known to cause permanent and sometimes fatal lung disease: diacetyl and its chemical cousin, 2,3-pentanedione; and

Whereas, e-cigarettes aerosol ingredients include: nicotine, ultrafine particles, flavorings such as diacetyl; a chemical linked to lung disease, volatile organic compounds such as benzene; which is found in car exhaust and heavy metals such as nickel tin and lead; and

Whereas, diacetyl destroys the lungs’ tiniest airways, leading to scar tissue buildup which blocks airflow. Its damage is irreversible; and

Whereas, Appleton has a smoke free indoor air ordinance, outlined in 7-100, that was enacted to protect workers and the public from secondhand smoke;

Now, Therefore Be it Resolved, that the definition of “smoking” be modified to read:

“Smoking” means inhaling, exhaling, burning, or carrying any lighted, heated or ignited cigar, cigarettes, cigarillo, pipe, hookah, Electronic Smoking Device, or any plant product intended for human inhalation.

“Electronic Smoking Device” means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component part, or accessory of such a device, whether or not sold separately. “Electronic Smoking Device” includes any such device, whether manufactured, distributed, marketed, or sold

as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

“Electronic Smoking Device Paraphernalia” means cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, Electronic Smoking Device batteries, Electronic Smoking Device chargers, and any other item specifically designed for the preparation, charging, or use of Electronic Smoking Devices.

***\* Amended at March 20, 2019 Council as follows:***

*Make an exemption for businesses that ID customers at the door and don't allow anyone under 18 on their premises, to allow sampling exclusively of electronic non-combustible products.*