

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**18-20**

**AN ORDINANCE AMENDING SECTION 20-401 OF CHAPTER 20 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO DEFINITIONS.**

(Utilities Committee – 3/4/2020)

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

**Section 1:** That Section 20-401 of Chapter 20 of the Municipal Code of the City of Appleton, relating to definitions, is hereby amended to read as follows:

**Sec. 20-401. Definitions.**

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

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

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

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

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

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

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

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

- (1) Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4 or waters of the state including, but not limited to, any conveyances that allow any non-stormwater discharge including sewage, process wastewater, or wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
- (2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

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

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

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

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

- (1) Owned or operated by a municipality.
- (2) Designed or used for collecting or conveying stormwater.
- (3) Which is not a combined sewer conveying both sanitary and stormwater.
- (4) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**19-20**

**AN ORDINANCE AMENDING SECTION 20-412 OF CHAPTER 20 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO ALLOWED DISCHARGES.**

(Utilities Committee – 3/4/2020)

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

**Section 1:** That Section 20-412 of Chapter 20 of the Municipal Code of the City of Appleton, relating to allowed discharges, is hereby amended to read as follows:

**Sec. 20-412. Allowed discharges.**

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

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

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

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

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

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
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Office of the City Clerk

**20-20**

**AN ORDINANCE AMENDING SECTION 20-423 OF CHAPTER 20 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORMWATER POLLUTANTS BY THE USE OF STORMWATER MANAGEMENT PRACTICES.**

(Utilities Committee – 3/4/2020)

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

**Section 1:** That Section 20-423 of Chapter 20 of the Municipal Code of the City of Appleton, relating to requirement to prevent, control and reduce stormwater pollutants by the use of best management practices, is hereby amended to read as follows:

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

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

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
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**21-20**

**AN ORDINANCE AMENDING SECTION 20-433 OF CHAPTER 20 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO NOTICE OF VIOLATION.**

(Utilities Committee – 3/4/2020)

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

**Section 1:** That Section 20-433 of Chapter 20 of the Municipal Code of the City of Appleton, relating to notice of violation, is hereby amended to read as follows:

**Sec. 20-433. Notice of violation.**

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

(b) The Notice of Violation shall contain:

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



designated governmental agency or contractor and the expense thereof shall be charged to the violator.

- (c) Such notice may require without limitation:
- (1) The performance of monitoring, analyses, and reporting;
  - (2) The elimination of illicit connections or discharges;
  - (3) That violating discharges, practices, or operations shall cease and desist;
  - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (5) Payment of a fine to cover administrative and remediation costs; and
  - (6) The implementation of SMPs.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

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22-20

**AN ORDINANCE AMENDING SECTION 20-33 OF CHAPTER 20 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO METERS AND ACCESS TO PREMISES.**

(Utilities Committee – 3/4/2020)

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

**Section 1:** That Section 20-33 of Chapter 20 of the Municipal Code of the City of Appleton, relating to meters and access to premises, is hereby amended to read as follows:

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

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

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

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

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

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**23-20**

**AN ORDINANCE AMENDING SECTION 20-39 OF CHAPTER 20 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO LEAKAGE IN WATER PIPES.**

(Utilities Committee – 3/4/2020)

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

**Section 1:** That Section 20-39 of Chapter 20 of the Municipal Code of the City of Appleton, relating to leakage in water pipes, is hereby amended to read as follows:

**Sec. 20-39. Leakage in water pipes.**

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

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
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**24-20**

**AN ORDINANCE AMENDING SECTION 23-21 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PURPOSE.**  
(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-21 of Chapter 23 of the Municipal Code of the City of Appleton, relating to purpose, is hereby amended to read as follows:

**Sec. 23-21. Purpose.**

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

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
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25-20

**AN ORDINANCE AMENDING SECTION 23-22 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO WORDS AND TERMS DEFINED.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-22 of Chapter 23 of the Municipal Code of the City of Appleton, relating to words and terms defined, is hereby amended to read as follows:

**Sec. 23-22. Words and terms defined.**

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

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

***Craft-Distillery*** means a use which manufactures, bottles and packages a total of not more than 100,000 proof gallons of intoxicating liquor under the name of “whiskey”, “brandy”, “gin”, “rum”, “spirits”, “cordials” or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

***Development regulations*** means the parts of a zoning ordinance that applies to elements including but not limited to parking, loading and unloading, building and structure height, lot coverage, design and yard setback requirements.

***Distillery*** means a use which manufactures, bottles and packages a total of more than 100,000 proof gallons of intoxicating liquor under the name of “whiskey”, “brandy”, “gin”, “rum”, “spirits”, “cordials” or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

***Dwelling, multi-family*** means a building or portion thereof containing three (3) or more dwelling units.

***Dwelling, single family detached*** means a building containing one (1) dwelling unit that

is entirely surrounded by open space on the same lot. Typically referred to as a single-family home.

***Dwelling, two-family (or duplex)*** means a building containing two (2) dwelling units. The dwelling units are attached and may be located on separate floors or side-by-side.

***Dwelling, two-family zero lot line*** means two (2) single-family dwellings, attached by a common wall, each being on separate lots (a side-by-side duplex with each unit typically under separate ownership).

***Microbrewery/Brewpub*** means a use which manufactures, bottles and packages a total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages per calendar year and may or may not operate restaurant on the premises including storage and distribution of fermented malt beverages that have been manufactured on the premises.

***Nonconforming building or structure*** means a dwelling, building or structure that existed lawfully before the current zoning ordinance was enacted, but does not conform with one or more of the development regulations in the current zoning ordinance.

***Nonconforming use*** means a use of land, a dwelling, a building or a structure that existed before the current zoning ordinance was enacted or amended, but does not conform with the use restrictions in the current ordinance.

***Painting/Craft Studio with alcohol sales*** means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and alcoholic beverages for consumption while they paint and/or make crafts.

***Painting/Craft Studio without alcohol sales*** means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and non-alcoholic beverages for consumption while they paint and/or make crafts.

***Proof*** means the ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percentage of ethyl alcohol by volume.

***Proof gallon*** means a gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof. Proof is a method of measuring the alcohol content of spirits (intoxicating liquor). You calculate the proof of a spirits product by multiplying the percent of alcohol by volume by two (2). For example, a spirits (intoxicating liquor) product that has a 40% alcohol content by volume is 80 proof [40 multiplied by 2 = 80]. Converting U.S. gallons into proof gallons:

1. Multiply U.S. gallons by the percent of alcohol by volume.
2. Multiply by 2.

3. Divide by 100.

Sample calculation:

1. 100 U.S. gallons x 40% alcohol by volume=4000
2. 4000 x 2=8000
3. 8000/100= 80 proof gallons

**Restoration** means a construction process of repairing or renovating all or a portion of an existing building and/or structure, so as to restore it to its former or original appearance or condition.

**Replacement** means a construction process of completely removing all or a portion of an existing building and/or structure, so as to replace it with a new building or structure.

**Tasting room** means a use offering fermented malt beverages, wine or intoxicating liquor for consumption and/or retail sales on the premises where the fermented malt beverages, wine or intoxicating liquor is manufactured and/or at an off-premises location associated with premises. Tasting rooms may include food sales.

**Use, special** means a use that is permitted in a zoning district only if a special use permit is expressly authorized by the Common Council in accordance with the provisions in this zoning ordinance, but does not include a variance.

**Winery** means a use which manufactures, bottles and packages wine on premises including storage and distribution of wine that have been manufactured on the premises. The establishment shall hold the required liquor license issued by the state and/or city if, in addition to offering for sale fermented malt beverages manufactured on the premises, it also offers for sale fermented malt beverages and other alcohol manufactured by other producers other than the establishment.

*Please note: Only definitions with changes are included.*

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk



**ADOPTED: March 18, 2020**  
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Office of the City Clerk

**26-20**

**AN ORDINANCE AMENDING SECTION 23-35 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO TRANSITION RULES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-35 of Chapter 23 of the Municipal Code of the City of Appleton, relating to transition rules, is hereby amended to read as follows:

**Sec. 23-35. Transition rules.**

This section addresses the applicability of new substantive standards enacted by this ordinance to activities, actions, and other matters that are pending or occurring as of the effective date of this ordinance.

(a) Any application that has been filed with the Community and Economic Development Department or Inspections Division and has been determined to be fully complete by the City, prior to the effective date of this ordinance, shall be regulated by the terms and conditions of the ordinances and codes that were in place at the time of filing. However, all administrative procedures and penalties shall follow those set forth by this code.

(b) Except as noted otherwise, any application for a Zoning District Map Amendment that was filed, and has been determined to be fully complete by the City, prior to the effective date of this ordinance, shall continue through the process to completion pursuant to the terms and conditions of the ordinances and codes that were in place at the time of filing.

(c) Planned development districts in force at the time of adoption of this ordinance shall continue to be controlled under the standards of the existing planned development district until rezoned by Common Council. However, processes for approving or amending adopted final development plans, plats, certified survey maps, or site plans, shall follow the procedures of this ordinance.

(d) Any application before the Board of Appeals or any application that has been filed with the Community and Economic Development Department or Inspections Division and is fully completed, prior to the effective date of this ordinance, shall continue the process pursuant to the terms and conditions of the ordinance that were in place at the time of filing, provided that:

- (1) If such application is no longer required by the terms of this ordinance, the application will be dismissed; or,
- (2) If the proposed use or development requires additional approvals from the Board of Appeals pursuant to the terms of this ordinance that were not required under the previous ordinance, the application will be amended to include only those additional approvals that are now required and within the purview of the Board of Appeals.

(e) All new building sites shall meet the requirements of this ordinance unless, prior to the effective date of this ordinance:

- (1) A building permit was issued and is still valid; or,
- (2) A parcel was approved as a buildable lot by the Common Council, Plan Commission, Community and Economic Development Director or the Board of Appeals prior to the effective date of this code.

(f) **Previously Approved Special Use Permits.** All special use permits approved prior to the effective date of this chapter or subsequent amendments to this chapter shall remain in full force and effect under the terms and conditions of the special use permit approval. Any expansions or change of use of a previously approved special use permit may require compliance with the nonconforming building, structure, use and lot and/or special use permit provisions of this chapter.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
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27-20

**AN ORDINANCE AMENDING SECTION 23-42 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO NONCONFORMING BUILDINGS, STRUCTURES, USES AND LOTS.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-42 of Chapter 23 of the Municipal Code of the City of Appleton, relating to nonconforming buildings, structures, uses, and lots, is hereby amended to read as follows:

**Sec. 23-42. Nonconforming buildings, structures, uses and lots.**

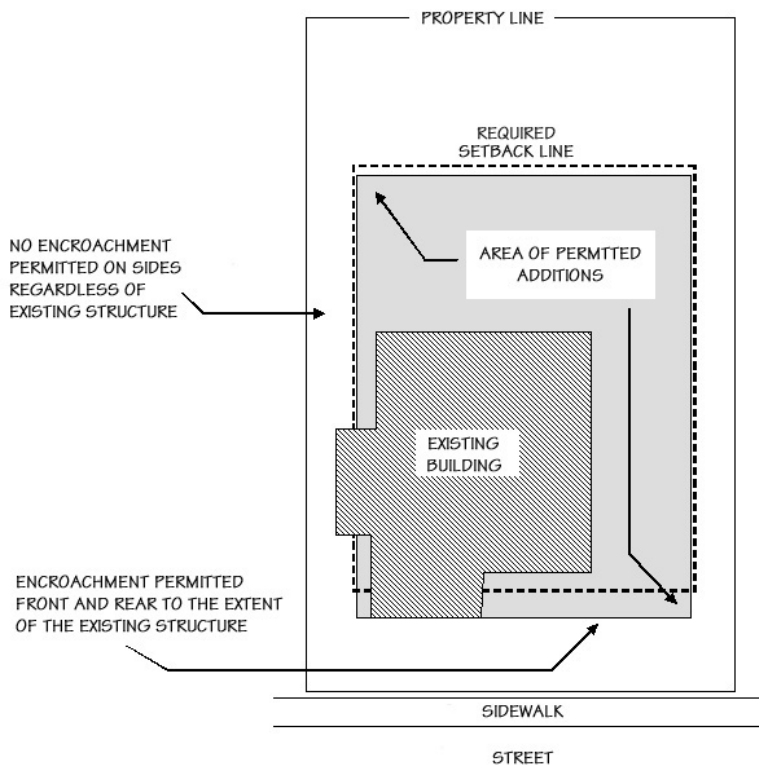
(a) ***Purpose.*** Within the Zoning Districts established by this chapter, there may exist uses, buildings, structures and lots that do not conform to the applicable provisions of this chapter, the purpose of this section is to specify those circumstances and conditions under which these nonconforming uses, buildings, structures, and lots may be allowed to continue.

(b) ***Continuance of nonconforming principal or accessory buildings or structures.*** A nonconforming principal or accessory building or structure existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming principal or accessory building or structure shall be subject to the following requirements:

- (1) ***Principal building or structure alterations.*** Alterations within the existing footprint of a nonconforming principal building or structure may be allowed provided that the alteration does not increase the degree of the existing nonconformity(ies) of the nonconforming principal building or structure.
- (2) ***Principal building or structure additions or expansions.*** Additions or expansions made to nonconforming principal buildings or structures may be permissible in the front, side and rear yards provided all of the following requirements of this subsection are complied with:
  - a. ***Side yard setback.*** The addition or expansion shall not encroach into the required principal building or structure side yard setback and required building and/or

structure separation setback of the applicable zoning district in which it is located, unless otherwise stated in this chapter;

- b. **Front and rear yard setback.** The addition or expansion shall not further encroach beyond the existing nonconforming front or rear yard setbacks of the existing nonconforming principal or structure, unless otherwise stated in this chapter;



- c. **Other requirements.** The addition or expansion shall conform with all other requirements of the applicable zoning district in which it is located and all other applicable provisions of this chapter, unless otherwise stated in this chapter.

(3) **Accessory building or structure alterations.** Alterations within the existing footprint of a nonconforming accessory building or structure may be allowed provided that the alteration conforms with the requirements of the applicable zoning district in which it is located, and provided the alteration conforms with all other applicable provisions of this chapter.

(4) **Accessory building or structure additions or expansions.** Additions or expansions made to nonconforming accessory buildings or structures may be permissible provided that all of the following requirements of this subsection are met and provided the addition or expansion conforms with all other applicable provisions of this chapter.

- a. The existing accessory building or structure is not located closer than two (2) feet from the side or rear lot line.
- b. The addition or expansion shall be located a minimum of five (5) feet from the principal building or structure.
- c. The addition or expansion shall not result in new construction which exceeds fifty percent (50%) of the original size of the accessory building or structure or two hundred (200) gross square feet, whichever is less.
- d. The addition or expansion shall not further encroach beyond the existing nonconforming front, side or rear yards setback.

**(5) *Restoration or replacement of certain nonconforming principal or accessory buildings or structures.***

- a. A nonconforming principal or accessory building or structure may be restored, replaced or repaired to the size, location and use that it had immediately before damage or destruction occurred, and without regard to the cost of such restoration, replacement, repairs or improvements if both of the following apply:
  1. The nonconforming principal or accessory building or structure was damaged or destroyed on or after March 2, 2006.
  2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
- b. The size of such nonconforming principal or accessory building or structure or to which this subsection applies may be enlarged if such enlargement is made necessary for the principal or accessory building or structure to comply with applicable state and federal requirements.

**(6) *Relocation of a principal or accessory building or structure.*** No principal or accessory building or structure shall be moved, or placed in whole or in part, to any other location on the same or any other lot unless every portion of such building or structure which is moved or placed and, the use thereof, conforms to all of the requirements of the applicable zoning district in which it is located, and provided the principal or accessory building or structure conforms with all other applicable provisions of this chapter.

**(7) *Principal or accessory building and structure ordinary maintenance and repairs.*** Ordinary maintenance and repairs within the existing footprint of a nonconforming principal or accessory building or structure may be allowed provided that the ordinary maintenance and repair does not increase the degree of the existing nonconformity(s) of the nonconforming principal or accessory building or structure.

(8) ***Nonconforming parking lots or loading areas.*** A nonconforming off-street parking lot or loading area existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming off-street parking lot or loading area shall be subject to the following provisions:

- a. The maintenance, overlay, resurfacing, rehabilitation, reconstruction or expansions to a nonconforming off-street parking lot or loading area shall not increase the degree of the existing nonconformity(ies) of the nonconforming off-street parking lot and/or loading area.
- b. Wherever possible, when rehabilitation or reconstruction occurs to a nonconforming off-street parking lot or loading area, all applicable off-street parking lot and/or loading area standards governing design, interior landscaping, perimeter landscaping and required amount of parking and loading spaces identified in this chapter shall be complied with. Sites that are physically constrained from complying with all aforementioned off-street parking lot and/or loading area standards shall comply to the maximum extent practicable, as determined by a site plan review pursuant to §23-570.
- c. An expansion of a nonconforming off-street parking lot or loading area shall require that the expanded portion conform to the all applicable provisions of this chapter.

(c) ***Continuance of nonconforming use of building, structure, or land.*** The nonconforming use of a building structure or land existing on the effective date of this chapter or subsequent amendments to this chapter may be continued. However, said nonconforming use of a building, structure or land shall be subject to the following requirements:

- (1) ***Change in tenancy or ownership.*** A historically allowed nonconforming use of a building, structure or land may be transferred to a new tenant or owner provided; that the historically allowed nonconforming use is not expanded, relocated or discontinued as identified in subsections (2), (3) and (5) of this section.
- (2) ***Expansions.*** The nonconforming use of a building, structure or land shall not be enlarged or expanded, unless otherwise specified in this chapter.
- (3) ***Relocation.*** No nonconforming use of a building, structure or land shall be moved or placed in whole or in part to any other portion of the lot, parcel or site than was occupied by such use at the time of the effective date of this chapter or subsequent amendments to this chapter.
- (4) ***Ordinary maintenance and repairs.***
  - a. Ordinary maintenance and repairs required to keep a building, structure or use in a safe condition, or when necessary to comply with state or local building codes or

property maintenance requirements may be allowed provided that ordinary maintenance and repair conforms with the applicable requirements of this chapter, and there is not an identifiable change in or expansion of the historically allowed nonconforming use.

- b. Off-street parking lot and loading area maintenance, overlay, resurfacing or rehabilitation may be allowed provided that maintenance, overlay, resurfacing or rehabilitation activity conforms with the applicable requirements of this chapter and there is not an identifiable change in or expansion of the historically allowed nonconforming use of land as a parking lot or loading area use.

(5) ***Discontinuance of nonconforming use.*** The nonconforming use of a building, structure or land which has been discontinued for a period of twelve (12) consecutive months, shall be deemed abandoned and the future proposed use of the building, structure or land shall be in conformity with the use requirements of the applicable zoning district in which it is located.

(d) ***Establishing the existence of a nonconforming use.*** The burden of proof that a nonconforming use of structure, building or land existed on the effective date of this chapter or subsequent amendments to this chapter shall be the responsibility of the property owner. Any property owner requesting to have a nonconforming use validated under the terms of this chapter or subsequent amendments to this chapter, shall make a request to the Inspections Supervisor for the issuance of a Certificate of Occupancy in accordance with this subsection.

(1) ***Certificate of Occupancy for a nonconforming use.*** In order to have a nonconforming use of structure, building or land validated under the terms of this chapter or subsequent amendments to this chapter, the property owner may request a certificate of occupancy be issued from the Inspections Supervisor. The property owner shall present historical data to the Inspections Supervisor that demonstrates the nonconforming use occupied the land, building or structure in conformance with the use regulations of the applicable zoning ordinance(s) preceding the effective date of this chapter or any subsequent amendments to this chapter and did not discontinued for a period of twelve (12) consecutive months between the time the use became nonconforming and the date when the request for a certificate of occupancy is submitted to the Inspections Supervisor.

- a. The decision of the Inspections Supervisor as to issue or not issue a certificate of occupancy shall be based upon the information provided by the property owner of the property on which the nonconforming use is located and on any other information available to the Inspections Supervisor as public record. Information may include, but shall not be limited to historical data related to building permits, certificate of occupancy permits, licenses, tax records, sales receipts, business records, photographs, site plans, utility information, assessment information, inspection records, affidavits from the owner or neighboring property owners who have knowledge of the existence of the use.

(e) **Nonconforming due to public acquisition.** When the federal, state, county or city government acquires land for public use including dedication, condemnation or purchase, the affected property or structure shall not be considered nonconforming if the property or structure was conforming prior to the federal, state, county or city government's action. All affected properties or structures shall be documented in the Inspections Division. This will be effective as of June 1, 1996 and not be retroactive.

(f) **Nonconforming lots of record.** Nonconforming lots of record existing on the effective date of this chapter or subsequent amendments to this chapter, may be built upon, under the following conditions and provided all other applicable provisions of this chapter are met.

- (1) The minimum side and rear yard setbacks shall be proportionally applied as based on the proportion that the nonconforming lot is smaller than the minimum lot size required in the zoning district the lot is located. Fractional numbers shall be rounded up to the nearest whole number.
- (2) In no case, however, shall a side yard setback be less than five (5) feet.
- (3) The minimum front yard setback shall be as established by the zoning district in which the lot is located without reduction unless abutting structures are closer to the front lot line. In that case, the adjusted front yard setback shall be the average of the existing front yard setbacks of the abutting structures on each side.
- (4) All other applicable development standards of the zoning district shall be complied with.

**Example:**

Minimum district lot size – 8,000 square feet.

Existing lot size – 6,000 square feet.

Minimum district yard setbacks:

Front – Twenty (20) feet

Side – Eight (8) feet

Rear – Twenty-five (25) feet

Existing lot size is seventy-five percent (75%) the size of the minimum district lot size:  $(6,000/8,000) = 0.75$

Apply the seventy-five percent (75%) to side and rear yard setback requirements of the district:

$$0.75 \times 8' = 6'$$



$$0.75 \times 25 = 18.75'$$

Adjusted minimum side yard setback requirement is six (6) feet and adjusted minimum rear yard setback requirement is nineteen (19) feet.

(g) *Special provisions for manufactured home communities.* A manufactured home community licensed under Section 101.935, Wis. Stats., that is a legal nonconforming use continues to be a legal nonconforming use notwithstanding the occurrence of any of the following activities within the community:

- (1) Repair or replacement of any manufactured homes.
- (2) Repair or replacement of infrastructure.

(h) *Special provisions for mobile home and manufactured homes not in a mobile home park.* A mobile home or a manufactured home not located in a mobile home park is considered a nonconforming use and must comply with Section 11-4 of the Municipal Code of the City of Appleton.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**28-20**

**AN ORDINANCE AMENDING SECTION 23-44 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO FENCES AND WALLS.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-44 of Chapter 23 of the Municipal Code of the City of Appleton, relating to fences and walls, is hereby amended to read as follows:

**Sec. 23-44. Fences and walls.**

(a) ***Fences and walls.*** Fences and walls are subject to the provisions of this section.

(1) ***Height***

The height of fences and walls shall be measured at grade, except as follows. Height may be measured two (2) inches above grade to allow for proper drainage and prevent rot of materials, when deemed appropriate by the Inspections Supervisor or designee. Berms may not be used to increase grade directly under a fence, unless otherwise stated in this chapter. Posts and post caps may project a maximum of four (4) inches above required fence height.

- a. **Boundary fence.** A boundary fence or wall shall not be more than six (6) feet in height in residential districts and not more than twelve (12) feet in commercial and industrial districts, except that hedges may be permitted to grow to their natural height. No boundary fence or wall, including a hedge or row planting, shall be permitted in excess of three (3) feet in height between the front yard setback line and the abutting lot lines, unless otherwise stated in this chapter.
- b. **Sound barrier fence or wall on an arterial/collector roadway.** A sound barrier fence or wall may be erected on a residential property, along the access-restricted lot line abutting an arterial or collector street. It shall not exceed eight (8) feet in height for double frontage lots and not exceed six (6) feet for corner lots, except in the vision corner.
- c. **Sound barrier fence or wall on a freeway.** A sound barrier fence, wall or combination of fence and berm or wall and berm may be erected along the yard

abutting a freeway. It shall not be more than twenty (20) feet in height, as measured from the grade of the adjacent freeway. Plans from a state certified engineer/architect that assure structural integrity may be required for fences higher than eight (8) feet

(2) **Materials.**

- a. Barbed wire fences, electrical fences, and single, double and triple strand fences are prohibited except in the AG agricultural, M-1 and M-2 industrial districts.
- b. For all zoning districts other than AG, fence material must be either naturally resistant or treated wood board, vinyl, galvanized and/or vinyl coated chain link material, wrought iron, brick, natural stone, masonry, or other material as approved by the Community and Economic Development Director. Chain link fence slats are subject to provisions of this ordinance.
- c. Fences and walls located in the front yard must be made of materials such as wood, brick, vinyl, wrought iron, or stone. Galvanized chain link material is prohibited in the front yard.
- d. The finished side of the fence shall be erected to face the adjoining property. The side with protruding studs or posts shall face the building of the lot responsible for the erection of the fence.
- e. Fences used for screening purposes for non-residential uses shall be subject to Crime Prevention Through Environmental Design (CPTED) standards. CPTED standards are reviewed and are available through the Appleton Police Department.

(3) **Exceptions.**

Protective security and boundary fences on industrial sites, publicly owned lands or semi-private lands such as places of worship, educational institutions, utility substations, etc. are excluded from the provisions of this section, except that where such fences incorporate the use of barbed wire, such barbed wire shall not be less than seven (7) feet above the ground level, and except such fences shall be a minimum of two-thirds (2/3) open to vision equally distributed throughout the fence length, and maintain allowable height when located within the defined vision corner.

- (4) **Setback.** No fence shall extend closer than five (5) feet from the right-of-way line of an improved public alley.
- (5) **Vision corner.** Fences and walls shall comply with vision corner requirements of §23-50(g), Vision corner.
- (6) **Maintenance.** Both the fence and the property surrounding both sides of the fence shall be properly maintained at all times.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

29-20

**AN ORDINANCE AMENDING SECTION 23-50(g) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO DIMENSIONAL EXCEPTIONS AND MODIFICATIONS; VISION CORNER.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-50(g) of Chapter 23 of the Municipal Code of the City of Appleton, relating to dimensional exceptions and modifications; vision corner, is hereby amended to read as follows:

**Sec. 23-50. Dimensional exceptions and modifications.**

(g) ***Vision corner.*** Vegetation or structures on private property (as per requirements of City Traffic Code, Chapter 19):

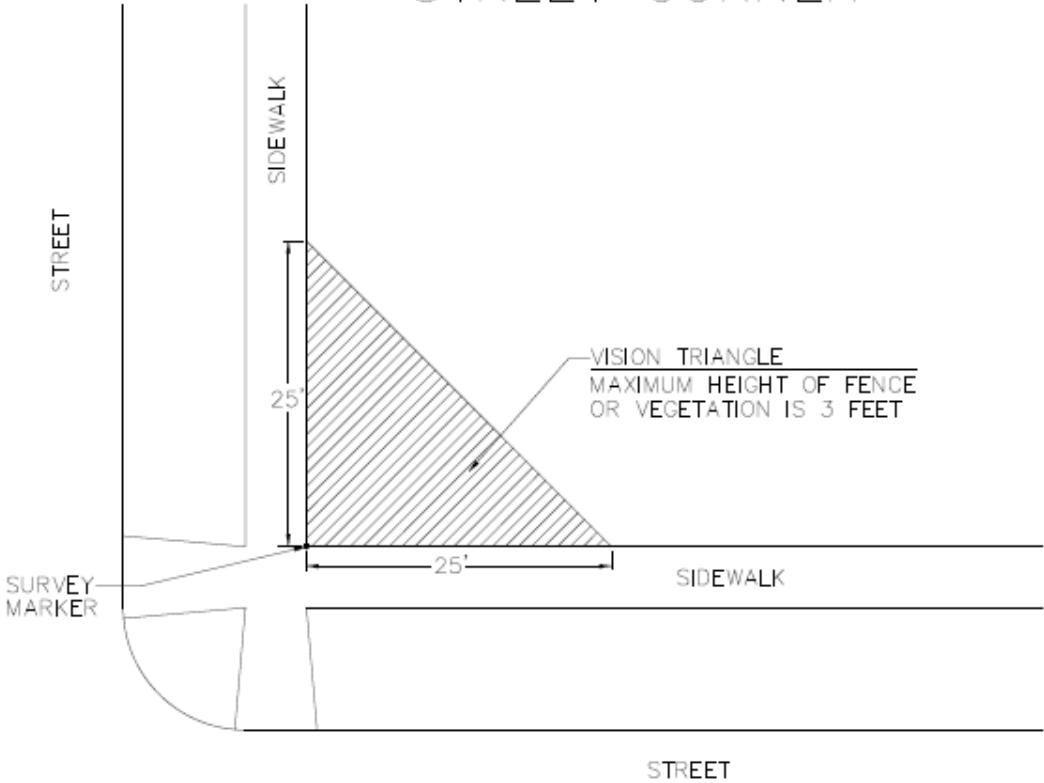
(1) ***Street corner.*** No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the street at its intersection with another street or public thoroughfare. There shall be a vision corner on all corner lots located in zoning districts that require a minimum twenty (20) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty-five (25) feet from the intersection of the right-of-way lines. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the adjacent property line elevation to ten (10) feet above the adjacent property line elevation.

(2) ***Private Driveway.*** No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the driveway, street, or public thoroughfare. There shall be vision triangles on all driveways located in zoning districts that require a minimum ten (10) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting the point ten (10) feet from the intersection of

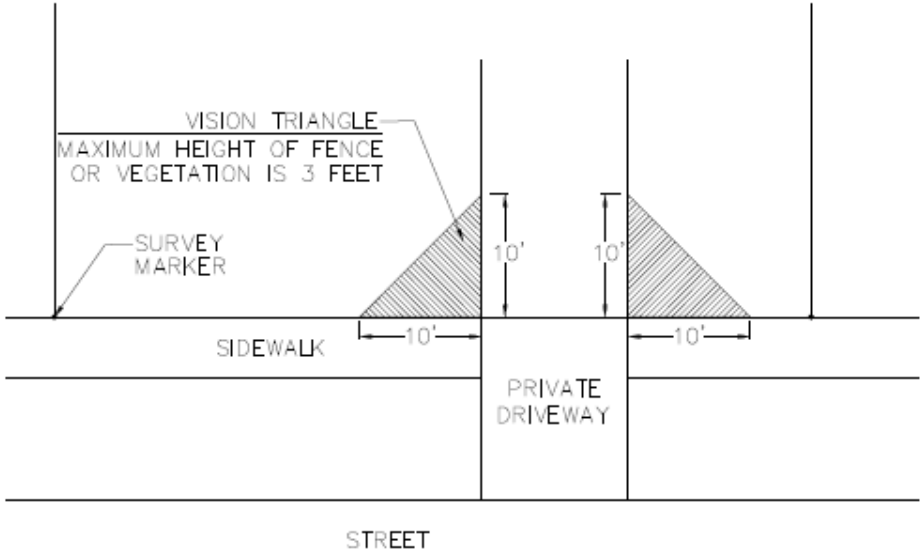
the street-right-of-way and private driveway. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the adjacent property line elevation to ten (10) feet above the adjacent property line elevation.

- (3) The provisions above also apply to those corner lots located in zoning districts that require a ten (10) foot setback from street property lines, except in those cases the vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty (20) feet from the intersection of the street right-of-way.

# VISION TRIANGLE AT STREET CORNER



# VISION TRIANGLE AT PRIVATE DRIVEWAY



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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk



**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**30-20**

**AN ORDINANCE AMENDING SECTION 23-63(b) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO BOARD OF APPEALS; POWERS AND DUTIES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-63(b) of Chapter 23 of the Municipal Code of the City of Appleton, relating to board of appeals; powers and duties, is hereby amended to read as follows:

**Sec. 23-63. Board of appeals.**

(b) ***Powers and duties.*** There is created a Board of Appeals with the powers and duties and qualifications as set forth in this chapter and in Wisconsin Statutes §62.23. Such powers and duties include:

- (1) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Community and Economic Development Director or the Inspections Supervisor in the enforcement of this chapter.
- (2) To hear and decide upon applications for variances from the requirements of this chapter.
- (3) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board or commission of the City to aid them in the performance of their respective duties relating to the planning and development of the City.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**31-20**

**AN ORDINANCE AMENDING SECTION 23-65(d)(7) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO ZONING AMENDMENTS; MAP AMENDMENTS; ACTION BY COMMON COUNCIL.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-65(d)(7) of Chapter 23 of the Municipal Code of the City of Appleton, relating to zoning amendments; map amendments; action by Common Council, is hereby amended to read as follows:

**Sec. 23-65. Zoning amendments.**

(d) *Map amendments.*

(7) ***Action by Common Council.*** Within forty-five (45) days of the public hearing, the Common Council shall either approve or deny the petition unless the applicant requests an extension. If Council action is to approve the change, it shall further act to formally amend the Official Zoning Map by adopting an ordinance. In the case where the Plan Commission, excluding the chairman, unanimously denies the change, a three-fourths ( $\frac{3}{4}$ ) vote of the members of the Common Council is required for approval of the amendment to this chapter.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**32-20**

**AN ORDINANCE AMENDING SECTION 23-66 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO SPECIAL USE PERMITS AND SPECIAL REGULATIONS.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-66 of Chapter 23 of the Municipal Code of the City of Appleton, relating to special use permits and special regulations, is hereby amended to read as follows:

**Sec. 23-66. Special use permits and special regulations.**

(a) ***Authority.*** The Common Council, by an affirmative two-thirds (2/3) vote of the entire Council, may by resolution, approve, approve with conditions, deny, or revoke a special use permit for uses listed as special uses in this Chapter. The resolution functions as the special use permit that authorizes the recipient to establish a specific land use under specific terms and conditions.

(b) ***Purpose.*** The purpose of this section is to provide regulations which govern the procedure and requirements to review and approve, approve with conditions, deny, or revoke a special use permit. Special uses are those uses having some uniqueness or unusual impact which requires a careful review of their location, design, business process, and hours of operation to determine against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the community and neighborhood impact and effect as well as consistency to the comprehensive plan.

(c) ***Procedure.***

- (1) ***Application.*** An owner or owner's designated agent wishing to obtain a special use permit for his property shall meet with the Community and Economic Development Director to discuss the proposal. If the owner or owner's designated agent desires to pursue the special use permit, they shall obtain, complete and file a special use permit application form with the Community and Economic Development Department accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public

notice and administrative review. One (1) electronic document and one (1) paper copy of the application materials (completed application form, plan of operation and development plans) shall be submitted with the fee to the Director. After submittal and acceptance of a complete application through initial review by the Director, the complete application and supporting materials are then filed with the City Clerk. The special use permit application and supporting materials shall be referred to the Plan Commission.

- (2) **Public hearing.** The Plan Commission shall hold a public hearing advertised by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
- (3) **Authority of the Plan Commission.** The Plan Commission shall within forty-five (45) days of the public hearing make a report and recommendation of approval or denial of the resolution which functions as the special use permit to the Common Council pursuant to Section 23-66(c)(5). In making its decision, the Commission shall keep a written record of findings relative to the standards for considering special use permit applications as listed in Sections 23-66 (c)(5) and (e).
- (4) **Authority of the Common Council.** The Common Council shall within forty-five (45) days of Plan Commission action act to approve, approve with conditions or deny the special use permit by resolution pursuant to Section 23-66(c)(5) and (e). The resolution functions as the special use permit that authorizes the recipient to establish a specific land use under specific terms and conditions.
- (5) **Approval or denial by Plan Commission and Common Council.**
  - a. **Definition of Substantial Evidence.** “*Substantial evidence*” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a special use permit and that reasonable persons would accept in support of a conclusion.
  - b. If a property owner or owner's designated agent for a special use permit meets or agrees to meet all of the requirements and conditions specified in the City of Appleton Municipal Code or those imposed by the Plan Commission and/or Common Council, the City shall grant the special use permit. Any condition imposed must be related to the purpose of the City of Appleton Municipal Code and be based on substantial evidence.
  - c. Any requirements and conditions for approval must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The property owner or owner's designated agent must demonstrate that the application and all requirements and conditions established by the city relating to the special use are or shall be satisfied, both of

which must be supported by substantial evidence. The City's decision to approve or deny the permit must be supported by substantial evidence.

- d. Once granted, a special use permit shall remain in effect as long as the conditions upon which the permit in the form of a resolution was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the Plan Commission and/or Common Council.
- e. If a special use permit application is denied, the property owner or owner's designated agent may appeal the decision to the circuit court under the procedures contained in Wisconsin Statute §62.23(7)(e)(10) or as amended.

(d) ***Application requirements.*** The applicant shall provide the following information on the special use permit application form:

- (1) Applicant and property owner's name, address and telephone number.
- (2) Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.
- (3) Completed Plan of Operation form.
- (4) Written justification for the special use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for special uses listed in subsection (e), Standards for granting special use permits, below.
- (5) Development plan of property being proposed for a special use permit which shall supply the information as identified below:
  - a. North arrows, date of preparation, and scale on 8½" x 11" size paper.
  - b. Name(s) of all adjacent or surrounding streets and right-of-way width(s).
  - c. Recorded property lines and their dimensions.
  - d. All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel.
  - e. Dimensions of existing and proposed yard setbacks for buildings and structures.
  - f. Dimensions of existing and proposed parking, loading, and unloading areas, sidewalks and interior and perimeter landscaping areas. Identify proposed and existing surface material(s).

- g. The location of existing and proposed trees, shrubs and grass.
- h. The location and details of proposed and existing refuse containers and their enclosures.
- i. The location and type of all proposed and existing exterior lighting fixtures.
- j. The location, height and materials of all proposed and existing fences or retaining walls.
- k. The location and size of existing and proposed driveways.
- l. The location and use of buildings and structures on adjoining land.
- m. Show the general landscaping concept for the site.
- n. Submit preliminary architectural plans for the existing and proposed buildings that show sufficient detail to permit an understanding of the style of the development and the design of the building(s).
- o. Submit floor plan of the building(s), including room dimensions.
- p. Other additional information that may be deemed appropriate by the Community and Economic Development Director.

(e) ***Standards for granting special use permits.*** No special use permit shall be recommended by the Plan Commission, or approved by the Common Council, unless all of the following standards are found in the affirmative:

- (1) ***Proper zoning district.*** The proposed special use is designated by this Chapter as a possible special use in the zoning district in which the property in question is located.
- (2) ***District regulations.*** The proposed special use will comply with all applicable development standards in the zoning district in which the property in question is located.
- (3) ***Special regulations.*** The proposed use will comply with all special regulations established by this chapter for such special use.
- (4) ***Comprehensive Plan or other plans.*** The proposed special use is consistent with the Comprehensive Plan or other plan officially adopted by Common Council.
- (5) ***Traffic.*** Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(6) **Landscaping and screening.** Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed special use as established in §23-172(g), Perimeter parking lot and loading space landscaping and §23-601, Landscaping and screening standards.

(7) **Neighborhood compatibility.** The proposed use is compatible with the predominant or prevailing land use of the neighborhood surrounding the proposed development. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height of buildings, walls and fences, landscaping, screening, and exterior lighting.

(8) **Impact on services.** The proposed special use will not substantially increase congestion in the public streets; will not place an undue burden on any other public utilities; or will not increase the danger of fire or endanger the public health or safety.

(f) **Guarantees, validity period and revocation.**

(1) **Expiration of special use permits.**

- a. A special use permit shall expire if the use is abandoned for a period of twelve (12) consecutive months.
- b. A special use permit shall expire if a building permit and/or occupancy permit has not been obtained within twelve (12) months of the issuance of the special use permit.
- c. A special use permit shall expire if the use has not been established within twelve (12) months of the issuance of the special use permit.

(2) **Time extension of special use permits.** Any party who has been issued a special use permit by the City shall notify the Community and Economic Development Director, in writing, that they are seeking a continuance or extension of any special use permit that has an expiration date as established by Common Council or this section. Such notification shall be submitted to the Community and Economic Development Director thirty (30) days prior to the special use permit expiration. The Community Development Director may grant one extension not to exceed 12 months.

(3) **Effective date and filing of special use permits.** A special use permit shall become effective upon approval of the resolution by the Common Council. A record of the special use permit shall be kept in the City Clerk and Community and Economic Development Department's files.

(4) **Continuation of a special use permit.** Once approved, a special use permit shall be allowed to continue and may be transferred to any entity, unless specified otherwise

as a condition of approval, as long as all conditions placed on the special use are followed.

(5) **Revocation of special use permits.** Upon inspection by the Inspections Supervisor of any complaint against any condition upon which the special use permit was approved, such permit may be subject to revocation if the violation is not corrected with 30 days of written notice to the owner of the use by the Inspections Supervisor. Such written notice shall specify the violation and the means necessary to correct it. If the violation is not corrected within the specified time, the Common Council shall have the authority to revoke the special use permit upon recommendation of the Plan Commission after holding a public hearing by advertising a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

(g) **Major and minor changes to special uses.** When an applicant requests a change in special use, the City shall review such change or modification to assure compatibility and compliance with the purpose of this section.

(1) **Minor change.** Minor changes shall be submitted to and be reviewed and approved by the Plan Commission amending the previously approved resolution (special use permit) or adopting a new resolution (special use permit) to those special uses that were not approved by a resolution. Minor changes include:

- a. Expansions of special uses of less than ten percent (10%).
- b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.

(2) **Major change.** All other changes not identified as a “minor change” shall be deemed a major change in a special use and shall be submitted to Common Council for review per §23-66(c), Special use permits, procedure.

(h) **Special regulations.** The following special regulations shall apply to uses listed below, whether listed a principal permitted use, special use or accessory use in this chapter.

(1) **Electronic towers.** Radio, television, broadcasting tower or station, microwave and other electronic transmission or receiving tower in excess of sixty (60) feet (from ground level) in height in any zone shall be subject to the following standards as illustrated on a site plan submitted with the application for special use permit. Electronic towers shall not include wireless telecommunication towers or facilities that are regulated in Article XIII, Wireless telecommunication facilities, of this zoning ordinance.

- a. Distance of each freestanding tower base footing from any residentially zoned lot line shall have a horizontal distance equal to at least fifty percent (50%) of the height of the tower, or fifty (50) feet, whichever is greater.



- b. Distance of any guyed tower anchor shall be twenty-five (25) feet from an adjoining lot line, public property or street right-of-way line.
- c. The applicant shall demonstrate that the location of the tower will not cause electrical interference or health hazards to adjoining properties. If electrical interference occurs after the tower begins operation or if interference is anticipated, the applicant shall provide appropriate steps to eliminate said interference.
- d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.
- e. Minimum landscaping features for all tower sites when abutting residential properties shall consist of at least one (1) row of staggered evergreen trees or shrubs, at least four (4) feet high at the time of planting, which are spaced not more than ten (10) feet apart and planted within twenty-five (25) feet of the site boundary.
- f. The plans submitted for a building permit for tower construction shall be certified by a structural engineer licensed in Wisconsin.
- g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

**(2) *Utility substations and other utility structures.*** Utility substations or other utility structures in any zone shall be subject to the following additional standards:

- a. All buildings and structures shall be screened from view from any adjacent property; the screening shall include a minimum five (5) foot high staggered row of evergreen vegetation which provides an effective year-round screening in addition to any fencing which may be deemed appropriate to provide additional screening from any adjacent property.
- b. All such uses shall be enclosed with a minimum six (6) foot high fence where any hazard to the safety of human life is anticipated.
- c. No service or storage yard for such facility shall be permitted, unless screened in accordance with the outdoor storage requirements to this chapter.
- d. All buildings and structures shall comply with the minimum principal building front, side and rear yard standards of the underlying zoning district.
- e. The level of noise emanating from such use shall not exceed sixty (60) decibels measured at any lot line of the subject property.

- f. No special use permit is required if the utility substation is proposed to be located fully inside an existing building and is accessory to the primary use of the building.

**(3) *Sexually-oriented establishment.***

Sexually-oriented establishments shall be as regulated in Article XII, Sexually-oriented establishments, of this zoning ordinance.

**(4) *Body repair and/or paint shop.***

- a. All repair, painting and service of vehicles shall occur within a completely enclosed building.
- b. All vehicles awaiting repair shall be located within the side and rear yard and shall be completely screened from view from any public street, alley and adjacent property.
- c. All outdoor storage areas shall comply with the outdoor storage area requirements identified in this chapter.
- d. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

**(5) *New and used automobile, RV, truck, cycle, boat sales and display lot.***

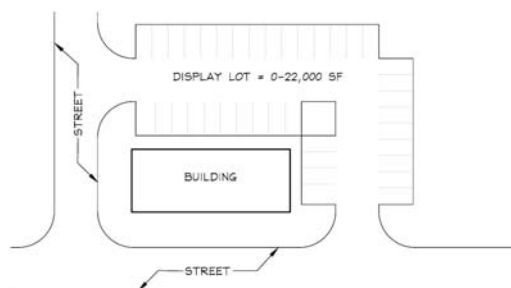
- a. All outdoor lighting shall comply with the standards in §23-53, Outdoor lighting.
- b. The minimum landscaping for display lots shall consist of the following landscaping standards:
  - 1. Perimeter setbacks.
    - i. Side and rear yards shall be a minimum of a five (5) foot wide buffer except when abutting a residential or public-institutional district, then ten (10) feet.
    - ii. Front yards shall be a minimum of a five (5) foot wide buffer.
  - 2. Perimeter landscape material.
    - i. Side and rear yards shall have a minimum six (6) foot high, staggered row of evergreens when abutting a residential or public-institutional zoned district. The property owner may request a waiver from the Community and Economic Development Director to reduce the setback and provide a six (6) foot high alternating board on board fence with landscaping.

- ii. Perimeters adjacent to the right-of-way (front yards) shall have a minimum one (1) foot high, staggered row of evergreen and deciduous shrubs across eighty percent (80%) of the lot frontage, excluding driveway openings. Furthermore, one (1) shade tree shall be provided at approximately every forty (40) feet on center when the site abuts a dedicated public street.

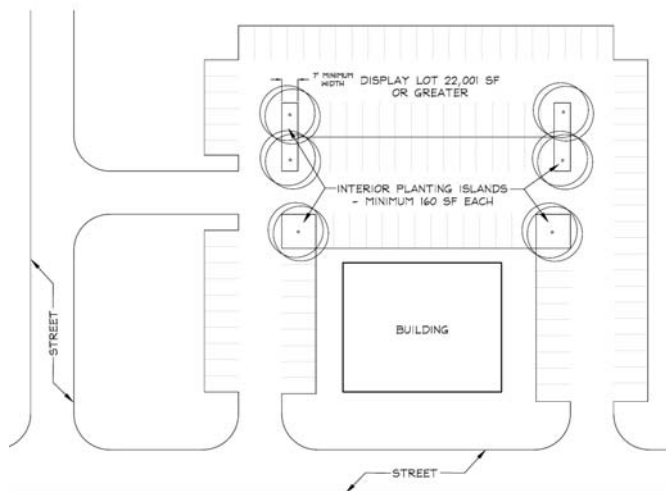
3. Interior landscaping.

- i. Display lots 0-22,000 square feet in area – No interior planting islands required.
- ii. Display lots 22,001 square feet in area or greater – Not less than two percent (2%) of the display lot area shall be devoted to interior planting islands. The planting islands may be centrally located within the display lot and contain a minimum of one hundred sixty (160) square feet and be a minimum of seven (7) feet in width.

NO INTERIOR PLANTING ISLAND REQUIRED  
DISPLAY LOT = 0-22,000 SF



NOT LESS THAN 2 PERCENT OF DISPLAY LOT  
DEVOTED TO INTERIOR PLANTING ISLANDS  
DISPLAY LOT = 22,001 SF OR GREATER



4. Interior landscape material.

The primary plant materials shall be deciduous trees with at least one (1) deciduous tree for every one hundred sixty (160) square feet of interior planting island area.

- c. The outdoor display of merchandise and vehicles for sale shall not be located in areas intended for traffic circulation according to the site plan and development plan.
- d. No outdoor loudspeakers shall be in use between the hours of 8:00 p.m. and 8:00 a.m. when adjacent to a residential district.

**(6) *Bars, taverns, painting/craft studios and restaurants with alcohol sales.***

- a. Such establishments shall conform to the standards established in Chapter 9, Article III, Alcoholic beverages, of the Appleton Municipal Code.
- b. The site shall be kept free of litter and debris.
- c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

**(7) *Circus or carnivals.***

- a. In no case shall carnival rides or midways be within three hundred (300) feet of any residential zoning district or residence.
- b. All other approved temporary structures associated with the circus or carnival shall comply with the standards of §23-54.

**(8) *Gasoline sales.***

- a. A minimum lot area of eighteen thousand (18,000) square feet shall be required. Lot frontage shall be a minimum of one hundred twenty (120) feet if located on a designated arterial street.
- b. A canopy constructed over gas pumps islands shall architecturally match the design of the main building and shall not exceed twenty-two (22) feet in height.
- c. All canopy lighting must project downward and shall be of full cutoff design unless indirect lighting is to be used whereby light is directed upward and then reflected down from the ceiling of the structure. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the ceiling of the canopy and shall comply with the standards in §23-53, Outdoor lighting.

- d. All gas pumps and canopies constructed over gas pumps shall be setback a minimum of forty (40) feet from any adjacent residentially zoned district.
- e. All outdoor storage and outdoor sales display areas shall comply with §23-46, Outdoor storage and display in non-residential districts, of this chapter.
- f. All gas pumps and canopies shall comply with the minimum principal building front, side and rear yard standards of the underlying zoning district.
- g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

**(9) *Helicopter landing pad.***

- a. Setbacks, landscaping and fencing appropriate to the specific nature of the use proposed shall be established during the special use permit review process.
- b. All areas for active use, including above ground fuel storage tanks shall be fully screened with a fence or evergreen shrubs.
- c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- d. Unless necessary for medical or emergency purposes, the hours for operation shall be between 7:00 a.m. – 8:00 p.m.

**(10) *Mobile home parks.*** Mobile home parks shall meet the standards and requirements of the City of Appleton's Manufactured and Mobile Homes and Manufactured and Mobile Home Communities Ordinance (Ch. 11).

**(11) *Outdoor commercial entertainment.***

- a. All buildings, structures, viewing areas or seating areas shall be setback at least two hundred (200) feet from any residentially zoned district.
- b. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.
- c. The hours of operation shall be identified by the applicant and approved by the Common Council as part of the special use permit process.

**(12) *Outdoor kennels.***

Such uses shall conform to the standards established in Chapter 3, Animals, of the Appleton Municipal Code and as established below:

- a. All outdoor areas for dogs shall be fully enclosed with a six (6) foot high opaque fence.
- b. All outdoor areas for dogs shall be located in the rear yard only and be setback from a minimum of twenty (20) feet from the lot lines.
- c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

**(13) *Recycling and waste recovery center.***

- a. All processing operations shall occur within a completely enclosed structure or building.
- b. Outdoor storage shall be limited to drop-off recycling bins and shall comply with the applicable outdoor storage requirements of this chapter.

**(14) *Recycling collection point.***

- a. Recycling collection points shall not be located in areas intended for pedestrian and motor vehicle traffic and emergency service vehicle circulation on the premises.
- b. No processing of materials shall occur on premises.
- c. Collection points shall not be located on a vacant lot.

**(15) *Towing business.***

- a. No servicing or maintenance of vehicles shall occur within the designated impound area.
- b. All designated impound areas located outside of an enclosed building shall be fully screened by an opaque fence, hedge or similar evergreen planting.
- c. No vehicles shall be located outside of the designated impound area.
- d. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.

**(16) *Custom manufacturing.***

- a. All custom manufacturing processes shall occur within a completely enclosed building.
- b. No off-site impacts including noise, odor, heat generation, glare or vibration shall occur on adjacent properties.
- c. The products or goods manufactured on premise shall be displayed or sold on premises.
- d. The on-site production area and materials storage area for the products or goods manufactured on premises shall not occupy more than thirty percent (30%) of the gross floor area of the space occupied by the custom manufacturing use.

(17) *Urban farm.*

- a. **Use of produce and sales.** Retail sales of plants and produce grown on-site and other public use of the urban farm may occur between the hours of 8:00 a.m. and 8:00 p.m. every day of the week unless otherwise adjusted and stipulated by the Special Use Permit.
- b. **Mechanical Equipment.** The operating of mechanical equipment or motor vehicle, including but not limited to lawn mowers, roto-tillers, garden tractors, motorized weed trimmers, “farm tractor”, “all terrain vehicle” or any similar device, necessary for the maintenance of property shall only take place between the hours of 7:00 a.m. and 10:00 p.m. standard time or daylight savings time when in effect with the exception of snow removal equipment.
- c. **Signs.** One identification sign is permitted not exceeding eight (8) feet in height or forty-eight (48) square feet per sign face, and shall be subject to other applicable provisions of ARTICLE XIV. SIGNS including, but not limited to, setback and clearance standards.
- d. **Agricultural chemicals and seeds.** All seed and fertilizer shall be stored in a secured, rodent-proof container and housed within an enclosed structure.
- e. **Accessibility.** The urban farm must comply with Americans with Disabilities Act design standards for accessible entrance routes and accessible routes between its different components and must follow universal design principles whenever possible.
- f. **Planting area and principal building setbacks.** Development Standards. (See applicable zoning district for principal building/structure development standards).
- g. **Size of buildings/structures.** All buildings, including but not limited to, tool sheds, rest-room facilities, composting toilets, and planting preparation houses, hoopouses and greenhouses may have a combined area of all buildings and

structures not to exceed twenty-five percent (25%) percent of the lot area. Roof top gardens on buildings are exempt from this standard.

- h. **Fences.** Fences are permitted as regulated in the underlying district unless otherwise authorized and stipulated by the Special Use Permit.
- i. **Compost and waste management.** Composting and waste management must be managed according to the farm management plan. Compost material is limited only to the materials generated on-site and must be maintained on-site. Compost materials from the garden or gardeners shall be stored in a manner that is not visible from adjacent property (shielded from view by shrubbery or an enclosure). Composting shall be conducted in a manner that controls odor, prevents infestation, and minimizes runoff into waterways and onto adjacent properties. No compost material generated off site shall be composted at an urban farm unless specifically approved by the City.
- j. **Site design.** The site must be designed so that water and fertilizers will not drain onto adjacent property or into the City's waste water system.
- k. **Management plan.** Urban farms must prepare a management plan, to be reviewed as part of the special use process, to address how activities will be managed to avoid impacts on surrounding land uses and natural systems and includes any proposed mitigation measures. The management plan must include:
  - i. A description of the type of equipment and vehicles necessary or intended for use in each season and the frequency and duration of anticipated use.
  - ii. Disclosure of any intent to spray or otherwise apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests or other purposes they are intended for.
  - iii. Disclosure of the spreading of manure or any other waste generated by the agricultural use.
  - iv. Disclosure of parking impacts related to the number of staff on-site during work hours, and the number of potential visitors regularly associated with the site.
  - v. Disclosure of whether the operation of the urban farm would involve two thousand (2,000) square feet or more of land-disturbing activity, or would otherwise require drainage and/or erosion control approval under Chapter 24 of the Municipal Code.
  - vi. A composting and waste management plan.
  - vii. Disclosure of any intent to invite the public to a program of events on the site.



viii. Site Plan contains, but is not limited to, the following:

- Parking facilities;
- Planting area including plant types;
- Location and number of rest room/sanitary facilities;
- Fence type, height and location;
- Sign size and location;
- Area to be utilized for produce cleaning and preparation;
- Area to be utilized for sales;
- Equipment, materials and fuel storage area;
- Composting location.

ix. Identification of water source.

x. Any additional information that may be deemed appropriate by the Director of Community and Economic Development or designee.

xi. Lighting.

xii. Security.

1. **Standard conditions of approval.** In addition to complying with Section 23-66 Special use permits of this ordinance and in determining whether to approve, approve with conditions or deny the application, the City shall consider the potential impacts, including:

- i. **Water quality and soils.** Impacts of irrigation run-off on adjacent properties, water bodies and environmentally critical areas, and proposed sediment and erosion control measures.
- ii. **Traffic and parking.** Impacts related to the number of staff onsite during work hours, and the number of potential visitors regularly associated with the site.
- iii. **Visual impacts and screening.** Visual impacts relating to the proposed nature, location, design, and size of proposed buildings, structures and

activities, including the location of composting activities and planting areas, and any existing or proposed screening.

- iv. **Noise and odor.** Impacts related to the location on the lot of the proposed urban farm, any trash or compost storage areas, any farm stand or additional accessory structure, and any other noise-generating or odor-generating equipment and practices.
  - v. **Agricultural chemicals.** Impacts related to the use of chemicals, including any fertilizer and pesticide.
  - vi. **Mechanical equipment.** Impacts related to the operation of equipment, including noise, odors, and vibration.
- m. **Compliance with laws.** All urban farms and their owners, lessees, employees, volunteers, and visitors must comply with all federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the farm premises. Site users may not use materials such as inappropriate fill that introduce heavy metals or other harmful contaminants to garden or farm sites. Site users may use pesticides only to the extent permitted by law.

These Urban Farm standards and requirements are intended to work in concert with other applicable Municipal Codes including, but not limited to, Chapter 3 Animals, Chapter 4 Building, Chapter 7 Health, Chapter 9, Licenses, Permits, and Chapter 21 Vegetation and any other applicable Appleton Municipal Code Chapter. These and any other applicable local, state and federal regulations shall also apply.

**(18)Outdoor storage area for recreational vehicles.**

- a. **Purpose.** The purpose of these regulations is to provide adequate and convenient areas for such outdoor storage of recreational vehicles while minimizing the visual, noise and environmental impacts to adjacent properties and public and private streets.
- b. **Requirements.** Outdoor storage areas for recreational vehicles are accessory uses to personal storage facilities (self-storage/mini-warehouses) and shall be a permitted accessory use in the M-2 District. No outdoor storage areas for recreational vehicles shall be constructed or established on a lot unless a personal storage (self-storage/mini-warehouse) facility has already been constructed on the same lot. In addition, all of the following requirements shall apply to outdoor storage areas for recreational vehicles:
  - i. **Applicable Outdoor Storage.** Outdoor storage shall be limited only to the following recreational vehicles: “camping trailer”, “fifth-wheel trailer”, or “motor home” as those terms are defined by §340.01, Wis. Stats., as well as boat trailers and boats, trailered snowmobiles, trailered jet-ski(s). All other

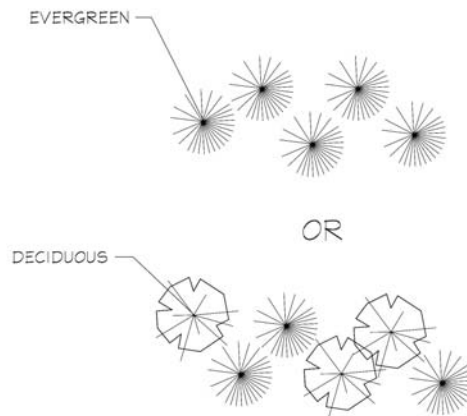
vehicles, equipment and other items are prohibited from being stored within such outdoor storage area and on the lot.

- ii. **Location.** No outdoor storage area shall be located between the principal building(s) and a front lot line.
- iii. **Outdoor lighting.** All outdoor lighting used to illuminate such outdoor storage area shall comply with the outdoor lighting requirements of this chapter.
- iv. **Surface material.** The surface material of the outdoor storage area and driveway leading from the lot line to such outdoor storage area shall be concrete or asphalt.
- v. **Setbacks requirements.** The surface material of the outdoor storage area shall be located a minimum of fifteen (15) feet from a side and/or rear lot line.
- vi. **Security requirements.** The perimeter (outer boundary) of the outdoor storage areas shall be secured with a continuous (with no break points) minimum eight (8) foot high fence or with continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to outdoor storage area, unless otherwise specified in this subsection.
- vii. **Screening requirements.**
  - 1. The perimeter (outer boundary) of the outdoor storage areas shall be screened with a continuous (with no break points) minimum eight (8) foot high opaque fence or continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high opaque fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to the outdoor storage area and minimize visual impact of recreational vehicles stored in such area, unless otherwise specified in this subsection.
  - 2. Where outdoor storage areas for recreational vehicles are proposed on parcels which abut a residential zoning district, a continuous staggered row of evergreens plantings shall be installed between the entire length of the opaque fencing and the lot line which abuts a residential zoning district but not including a gate, to soften the visual effect of the fencing. Evergreens shall be a minimum of six (6) feet high at the time of planting.

The number of evergreens shall be determined and installed in accordance with the requirements with the species spacing and care requirements.

3. The following shall apply to opaque fences abutting a street:
  - a. **Front lot line setback:** Eight (8) feet minimum.
  - b. **Fence height:** Eight (8) feet minimum.
  - c. **Vision corner:** Fences shall comply with vision corner requirements of this chapter.
  - d. **Design:** Chain-link or cyclone fences constructed of woven wire are not allowed.
  - e. **Landscaping:** A continuous staggered row of evergreens and deciduous plantings shall be installed between the entire length of the opaque fence and the front lot line but not including a gate, to soften the visual effect of the fencing and use. Evergreens and deciduous plantings shall be a minimum of four (4) to five (5) feet high at the time of planting. The number of evergreens and deciduous plantings shall be determined and installed in accordance with the requirements with the species spacing and care requirements.

#### STAGGERED PLANTINGS



4. **Exceptions to perimeter fence and landscaping location.** Any request or necessity for locating a fence, opaque fence and/or evergreens and deciduous plantings other than along perimeter of the outdoor storage area, shall require review and approval of an alternate location as part of the site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action of alternate fence, opaque

fence and/or evergreen and deciduous planting locations, shall be based upon the following criteria:

- a. The ability of the fence or opaque fence to maintain a continuous flow (with no break points) beyond the perimeter of the outdoor storage area.
- b. Effectiveness of the opaque fence and/or landscape plantings to effectively screen the outdoor storage area in an alternate location; and
- c. Effectiveness of the fence and/or opaque fence to effectively secure the outdoor storage area in an alternate location;
- d. Impact an alternative location may have on overall site appearance, vehicular traffic circulation and the functional well-being of the development proposed for the parcel.

5. **Modifications or waivers to screening and landscaping requirements.**

Any request for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall require review and approval of such modification or waiver as part of the site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall be based upon one (1) or more of the following conditions exist:

- a. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to topography or the location of the outdoor storage area on the lot.
- b. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to the presence of required screening, opaque fencing and/or landscaping on the lot.
- c. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to the presence of required screening, opaque fencing and/or landscaping on adjacent developed property and/or the presence of existing street trees located within the adjacent street right-of-way.

- c. **General Conditions.** The following general conditions shall apply to outdoor

storage areas for recreational vehicles:

- i. Recreational vehicles shall not be parked outside of the designated outdoor storage area.
- ii. Recreational vehicles shall not be used for business, living, sleeping or human habitation purposes.
- iii. Recreational vehicles shall not be permanently connected to sewer lines, water lines, or electricity.
- iv. No recreational vehicles are allowed to be stored within the designated outdoor storage area which is not currently licensed or operable.
- v. The area between the property line and the opaque security fence shall be landscaped and suitable ground cover, such as grass, bark, ornamental gravel or combination thereof.
- vi. The total combined square foot area of the outdoor storage area but not including the drive aisles within the perimeter of the outdoor storage area shall not exceed the total combined gross floor area of all personal storage (self-storage/mini-warehouse) buildings on the site or parcel.

**(19) *Microbrewery/Brewpubs and Craft-Distilleries.***

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. A total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- c. A total of not more than 100,000 proof gallons of intoxicating liquor shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- d. Tasting rooms require a Special Use Permit in the C-1, C-2 and CBD Zoning District.
- e. Tasting rooms are accessory uses to a Microbrewery/Brewpubs and Craft-Distilleries located in the M-1 and M-2 Zoning District and requires a Special Use Permit.
- f. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

**(20) *Brewery and Distilleries.***

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. Tasting rooms are accessory uses to a Brewery and Distilleries located in the M-1 and M-2 Zoning District and requires a Special Use Permit.
- c. Retail sales of business merchandise on the brewery and distillery premises shall be an accessory use to the brewery and distillery manufacturing operations or an accessory use to an use approved off-premises by Special Use Permit pursuant to Section 23-66(h)(20)b.
- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

**(21) *Winery.***

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. Tasting rooms are accessory uses to a Winery located in the Ag, M-2 and M-1 Zoning District and requires a Special Use Permit.
- c. Retail sales of business merchandise on the winery premises shall be an accessory use to the winery manufacturing operations or an accessory use to an use approved off-premises by Special Use Permit pursuant to Section 23-66(h)(21)b.
- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**33-20**

**AN ORDINANCE AMENDING SECTION 23-67 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO VARIANCES.**  
(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-67 of Chapter 23 of the Municipal Code of the City of Appleton, relating to variances, is hereby amended to read as follows:

**Sec. 23-67. Variances.**

(a) ***Purpose.*** The purpose of a variance is to allow relief from the strict application of this zoning ordinance as will not be contrary to the public interest and, where owing to special characteristics of the property or use, the literal enforcement of this ordinance would result in unnecessary hardship or in a practical difficulty for the property owner.

(b) ***Definitions of variance type.***

(1) Area variance – In this section, an “area variance” means a modification to a development standard, dimensional, physical, or locational requirement including be not limited to setbacks, lot coverage, area, building height, or density restriction for a use, building and/or structure that is granted by the Board of Appeals under this paragraph.

(2) Use variance – In this section, a “use variance” means an authorization by the Board of Appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

(c) ***Initiation of request for approval of a variance.*** A variance request may be taken to the Board of Appeals by any person, firm, corporation, by any officer, department, board, bureau or commission with a legal or equitable interest in the property for which the variance is requested.

(d) ***Standards for granting a variance.***

(1) Area variance – A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this section, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the



property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

- (2) Use variance – A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this section, for a use variance by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance.
- (3) In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

(e) ***Procedure.***

- (1) ***Application.*** Application for a variance shall be filed with the Inspections Supervisor accompanied by a nonrefundable application fee that may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review.
- (2) ***Public hearing.*** After receiving an application, the Board of Appeals shall hold a public hearing on the application for variance which:
  - a. The Board of Appeals shall advertise the request by a Class 2 notice for public hearing;
  - b. The Board of Appeals shall notify all property owners located within one hundred (100) feet of the subject site a minimum of ten (10) days prior to the public hearing.

(f) ***Review by the Board of Appeals.*** The requested variance shall be reviewed by the Board of Appeals with the standards below:

- (1) ***(Area variances) unique physical property limitations standard:*** What exceptional or extraordinary circumstances or special factors or unique property limitations including but not limited to an irregular shape of the lot, topography, soil conditions, wetlands, flood plain, environmental contamination or other conditions that are present which apply only to the subject property? In what manner do the factors listed prohibit the development of the subject property?
- (2) ***(Area variances) no harm to public interests standard:*** Would granting of the proposed variance result in a substantial or undue adverse impact on the public or character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property, or other matters affecting the public health, safety, or general welfare?

- (3) **(Area variances) self-created hardships standard:** Have factors which present the reason for the proposed variance been created by the act of the applicant or previous property owner or their agent?
- (4) **(Area variances) unnecessary hardships standard:** Would compliance with this Chapter unreasonably prevent the owner from using the property for a permitted purpose or would conformity with this Chapter create an unnecessary burden on the property owner?
- (5) **(Area variances) undue off-street parking and loading hardships standard:** Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unnecessary hardship upon the use of a lot, as contrasted with merely granting an advantage or a convenience and there is an acceptable parking alternative available.
- (6) **(Use variances) no reasonable use standard:** Has the applicant or owner demonstrated that they have “no reasonable use of the property” in absence of a variance?

**(g) Review and determination by board of appeals.**

- (1) The Board of Appeals must determine whether a variance request is seeking an area variance or seeking a use variance.
- (2) The Board of Appeals must determine the standard that applies for the grant of the variance.
- (3) The Board of Appeals must require the property owner bear the burden of proof.
- (4) Any variance granted must be due to conditions unique to the property rather than considerations personal to the property owner.
- (5) The variance cannot be granted if the hardship was created by the property owner.
- (6) The concurring vote of four (4) members of the Board shall be necessary to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. A variance granted under this section runs with the land.

(h) **Relief.** Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City, shall have recourse to such relief as is provided by Wisconsin Statutes §62.23(7)(e)(10) or as amended.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

34-20

**AN ORDINANCE AMENDING SECTION 23-91 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO AG AGRICULTURAL DISTRICT.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-91 of Chapter 23 of the Municipal Code of the City of Appleton, relating to Ag Agricultural district, is hereby amended to read as follows:

**Sec. 23-91. AG Agricultural district.**

(a) *Purpose.* The AG district is intended for areas of active agricultural use that are subject to future urban or suburban development. Permitted land uses include relatively low density uses such as agriculture and uses which require large sites and relatively limited investment in fixed structures. This zoning district serves as a holding district for land that may be subject to rezoning for purposes other than agricultural uses.

(b) *Principal permitted uses.* The following uses are permitted as of right in the AG district:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"><li>• Dwelling, single family, detached.</li></ul>	<ul style="list-style-type: none"><li>• Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52.</li><li>• Governmental facilities.</li><li>• Public parks or playgrounds.</li></ul>	<ul style="list-style-type: none"><li>• Agriculture.</li><li>• Community garden.</li><li>• Greenhouse or greenhouse nursery.</li><li>• Nursery, orchards or tree farm.</li><li>• Urban farm pursuant to §23-66(h)(17)</li><li>• Winery pursuant to §23-66(h)(21)</li></ul>

(c) *Accessory uses.* Accessory uses in the AG district may include:

(1) The accessory uses, buildings and structures specified in §23-43 are permitted as of right in the AG District.

(2) Bed and breakfast establishments pursuant to §23-48.

(3) Home occupation pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the AG District.

(e) **Special uses.** Special uses in the AG district may include:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"><li>• None.</li></ul>	<ul style="list-style-type: none"><li>• Essential services.</li></ul>	<ul style="list-style-type: none"><li>• Electronic towers pursuant to §23-66(h)(1)</li><li>• Outdoor commercial entertainment pursuant to §23-66(h)(11).</li><li>• Indoor kennel or outdoor kennel; pursuant to §23-66(h)(12).</li></ul>

(f) **Site plan.** Site plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the AG district are as follows:

(1) **Minimum lot area.** Ten (10) acres.

(2) **Minimum lot width.** One hundred fifty (150) feet.

(3) **Minimum front yard.** Thirty (30) feet.

(4) **Minimum rear yard.** Forty (40) feet.

(5) **Minimum side yard.** Forty (40) feet

(6) **Maximum building height.** One hundred (100) feet for non-residential uses. Thirty-five (35) feet for residential uses.

(7) **Maximum lot coverage.** Twenty percent (20%).

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**35-20**

**AN ORDINANCE AMENDING SECTION 23-92(f) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO R-1A SINGLE-FAMILY DISTRICT; SITE PLAN.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-92(f) of Chapter 23 of the Municipal Code of the City of Appleton, relating to R-1A single-family district; site plan, is hereby amended to read as follows:

**Sec. 23-92. R-1A single-family district.**

(f) *Site plan.* Site Plan requirements are set forth in §23-570, Site plan review and approval.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**36-20**

**AN ORDINANCE AMENDING SECTION 23-93(f) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO R-1B SINGLE FAMILY DISTRICT; SITE PLAN.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-93(f) of Chapter 23 of the Municipal Code of the City of Appleton, relating to R-1B single-family; site plan, is hereby amended to read as follows:

**Sec. 23-93. R-1B single-family district.**

(f) *Site plan.* Site Plan requirements are set forth in §23-570, Site plan review and approval.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk



**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**37-20**

**AN ORDINANCE AMENDING SECTION 23-94(f) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO R-1C CENTRAL CITY RESIDENTIAL DISTRICT; SITE PLAN.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-94(f) of Chapter 23 of the Municipal Code of the City of Appleton, relating to R-1C central city residential district, is hereby amended to read as follows:

**Sec. 23-94. R-1C central city residential district.**

(f) *Site plan.* Site Plan requirements are set forth in §23-570, Site plan review and approval.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**38-20**

**AN ORDINANCE AMENDING SECTION 23-95 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO R-2 TWO-FAMILY DISTRICT.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-95 of Chapter 23 of the Municipal Code of the City of Appleton, relating to R-2 two-family district, is hereby amended to read as follows:

**Sec. 23-95. R-2 two-family district.**

(a) ***Purpose.*** The R-2 district is intended to provide for and maintain residential areas characterized by single-family detached and two- (2-) family dwelling units. Increased densities and the introduction of two- (2-) family housing types are intended to provide for greater housing options for owners and renters while maintaining the basic qualities of a moderately dense residential neighborhood.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the R-2 district:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• Dwelling, single-family, detached.</li> <li>• Dwelling, two-family (duplex).</li> <li>• Dwelling, zero lot line two-family.</li> </ul>	<ul style="list-style-type: none"> <li>• Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52.</li> <li>• Day care, adult; serving five (5) or fewer persons.</li> <li>• Day care, family.</li> <li>• Family home, adult (A) and (D), pursuant to §23-22.</li> <li>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52.</li> <li>• Governmental facilities.</li> </ul>	<ul style="list-style-type: none"> <li>• None.</li> </ul>

(c) ***Accessory uses.*** Accessory uses in the R-2 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-2 district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-2 District.

(e) **Special uses.** Special uses in the R-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• None.</li> </ul>	<ul style="list-style-type: none"> <li>• Cemetery, including a mausoleum, provided that a mausoleum shall have a forty-(40-) foot setback from any lot line of the cemetery.</li> <li>• Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52.</li> <li>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building.</li> <li>• Educational institution; business, technical or vocational school.</li> <li>• Educational institution; college or university.</li> <li>• Educational institution; elementary school, junior high school, or high school.</li> <li>• Essential services.</li> <li>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure.</li> </ul>	<ul style="list-style-type: none"> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Recycling collection point pursuant to §23-66(h)(14).</li> <li>• Urban farms pursuant to §23-66(h)(17).</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	<ul style="list-style-type: none"> <li>• Marina and/or boat landing.</li> <li>• Place of worship.</li> <li>• Public parks or playgrounds.</li> <li>• Recreation facility, non-profit.</li> <li>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building.</li> </ul>	

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.**

(1) **Two-family dwellings (duplex) and other uses.**

- a. **Minimum lot area, Single-family dwelling (detached):** Six thousand (6,000) square feet.
- b. **Minimum lot area, Two-family dwellings (two-story duplex):** Seven thousand (7,000) square feet.
- c. **Minimum lot area, Two-family dwellings (single story duplex):** Nine thousand (9,000) square feet.
- d. **Minimum lot area, All other uses:** Seven thousand (7,000) square feet.
- e. **Minimum lot width, Single-family dwelling:** Fifty (50) feet.
- f. **Minimum lot width, All other uses:** (70 feet).
- g. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- h. **Minimum rear lot line setback:** Twenty-five (25) feet.
- i. **Minimum side lot line setback:** Six (6) feet.
- j. **Maximum lot coverage:** Sixty percent (60%).
- k. **Maximum building height:** Thirty-five (35) feet.

(2) **Zero lot line Two-family dwellings.**

- a. **Minimum lot area:** Three thousand (3,000) square feet per dwelling.
- b. **Minimum lot width:** Thirty (30) feet per dwelling.
- c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- d. **Minimum rear lot line setback:** Twenty-five (25) feet.
- e. **Minimum side lot line setback:** Zero (0) feet on one (1) side with a common wall provided that:
  - i. The opposite side yard being a minimum of six (6) feet.
  - ii. Patios and decks may have a zero setback from the zero lot line side yard setback.
  - iii. Driveways may be separate or shared.
  - iv. All state and local building code requirements shall be met for a zero-lot line two-family dwelling.
  - v. Every zero lot line two-family dwelling constructed after March 24, 2020 shall be constructed with identical materials.
  - vi. For the purpose of this subsection the term “identical materials” means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.
  - vii. For the purpose of this subsection the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly

corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.

- viii. Restrictive covenants shall be recorded at the county register or deeds, providing declarations and or bylaws similar to those typically recorded on a declaration of condominium.
  1. If the driveway is shared, the maintenance and use standards for the shared driveway shall be part of said covenants.
  2. Include a note that reads, *“The parties hereto agree that the aesthetics of the units are important to the value of the building. Therefore, any subsequent repairs or maintenance performed by a unit owner to the exterior of their portion of the zero lot line two-family dwelling shall use at a minimum materials similar with those materials already incorporated into the building if identical materials are not incorporated into the repair or maintenance project. Each party may agree in writing to change the original color of the building so long as the color change applies to each unit. No party may change the color of the building so that it is different than the other unit.”*
  3. Said covenants shall provide for mediation of any and all disputes between owners of each dwelling unit and third party with regard to construction, use and maintenance of the real property.
  4. Said covenants shall specifically state the City of Appleton and all approving authorities shall not be held responsible for same, and that said covenants shall insure to all heirs and assigns.
  5. Proof of said recorded covenants or subsequently amended shall be submitted to the Community and Economic Development Department.
- ix. Each dwelling unit shall have separate sewer and water lines and other separate utility lines entering each dwelling unit and also separate sump pump.
- x. Easements shall be provided upon each lot as may be

necessary for ingress and egress, water, sewer and all other utility services.

- xi. The zero lot line parcel shall be divided by certified survey map or subdivision plat pursuant to Chapter 17 Subdivisions of the Municipal Code.
  1. A restrictive endorsement shall be placed on the face of the CSM or plat that reads, “*When zero lot line two-family dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, use, repair and maintenance shall be guarded against by private/restrictive covenants and deed restrictions, and no approving authority shall be held responsible for the enforcement of same.*”
  2. A copy of said Restrictive covenants shall be submitted with the initial application for certified survey map or subdivision plat approval.

f. ***Maximum building height:*** Thirty-five (35) feet.

(h) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**39-20**

**AN ORDINANCE AMENDING SECTION 23-96 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO R-3 MULTIFAMILY DISTRICT.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-96 of Chapter 23 of the Municipal Code of the City of Appleton, relating to R-3 multifamily district, is hereby amended to read as follows:

**Sec. 23-96. R-3 multifamily district.**

(a) ***Purpose.*** The R-3 district is intended to provide for and maintain residential areas characterized by multiple family dwellings, while maintaining the basic qualities of a dense residential neighborhood, which may include other housing types and institutional and limited non-residential uses.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the R-3 district:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• Assisted living facility or retirement home.</li> <li>• Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse.</li> <li>• Dwelling, single-family, detached.</li> <li>• Dwelling, two-family (duplex).</li> <li>• Dwelling, zero lot line two-family.</li> <li>• Nursing or convalescent home.</li> <li>• Residential care apartment complex.</li> </ul>	<ul style="list-style-type: none"> <li>• Community living arrangements serving fifteen (15) or fewer persons, pursuant to §23-22 and §23-52.</li> <li>• Day care, adult; serving five (5) or fewer persons.</li> <li>• Day care, family.</li> <li>• Family home, adult (A) and (D), pursuant to §23-22.</li> <li>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52.</li> <li>• Governmental facilities.</li> </ul>	<ul style="list-style-type: none"> <li>• None.</li> </ul>



(c) **Accessory uses.** Accessory uses in the R-3 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-3 district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-3 District.

(e) **Special uses.** Special uses in the R-3 district may include:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• Manufactured and mobile home communities; pursuant to §23-66(h)(10) and Chapter 11 of the Municipal Code.</li> </ul>	<ul style="list-style-type: none"> <li>• Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40) foot setback from any lot line of the cemetery.</li> <li>• Community living arrangements serving sixteen (16) or more persons, pursuant to §23-22 and §23-52.</li> <li>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building.</li> <li>• Educational institution; business, technical or vocational school.</li> <li>• Educational institution; college or university.</li> <li>• Educational institution; elementary school, junior high school or high school.</li> <li>• Essential services.</li> <li>• Golf course. However, the</li> </ul>	<ul style="list-style-type: none"> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Recycling collection point pursuant to §23-66(h)(14).</li> <li>• Shelter facility.</li> <li>• Urban farms pursuant to §23-66(h)(17).</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	<p>clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure.</p> <ul style="list-style-type: none"> <li>• Group home, adult.</li> <li>• Group housing.</li> <li>• Marina and/or boat landing.</li> <li>• Place of worship.</li> <li>• Public parks or playgrounds.</li> <li>• Recreation facility, non-profit.</li> <li>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building.</li> </ul>	

(f) **Site plan.** Prior to obtaining a building permit for any use except for one- (1-) and two- (2-) family dwellings on land in the R-3 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Development standards.**

(1) **Single-Family Dwelling, Detached:**

- a. **Minimum lot area:** Six thousand (6,000) square feet.
- b. **Minimum lot width:** Fifty (50) feet.
- c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- d. **Minimum rear lot line setback:** Twenty-five (25) feet.
- e. **Minimum side lot line setback:** Six (6) feet.
- f. **Maximum lot coverage:** Seventy percent (70%).
- g. **Maximum building height:** Thirty-five (35) feet.

(2) ***Two-family Dwellings (duplex):***

- a. ***Minimum lot area, Two-family dwellings (two-story duplex):*** Seven thousand (7,000) square feet.
- b. ***Minimum lot area, Two-family dwellings (single story duplex):*** Nine thousand (9,000) square feet.
- c. ***Minimum lot width:*** Seventy (70) feet.
- d. ***Minimum front lot line setback:*** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- e. ***Minimum rear lot line setback:*** Twenty-five (25) feet.
- f. ***Minimum side lot line setback:*** Six (6) feet.
- g. ***Maximum lot coverage:*** Seventy percent (70%).
- h. ***Maximum building height:*** Thirty-five (35) feet.

(3) ***Multi-family Dwellings and Other Uses:***

- a. ***Minimum lot area, Multi-family dwellings:*** One thousand five-hundred (1,500) square feet per dwelling unit.
- b. ***Minimum lot area, All other uses:*** Seven thousand (7,000) square feet.
- c. ***Minimum lot width:*** Eighty (80) feet.
- d. ***Minimum front lot line setback:*** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- e. ***Minimum rear lot line setback:*** Thirty-five (35) feet.
- f. ***Minimum side lot line setback:*** Twenty (20) feet.
- g. ***Minimum distance between multi-family buildings:*** Twelve (12) feet.
- h. ***Maximum lot coverage:*** Seventy percent (70%).
- i. ***Maximum height:*** Forty-five (45) feet.

(4) ***Zero Lot Line Two-family Dwelling:***

- a. **Minimum lot area:** Three thousand (3,000) square feet per dwelling.
- b. **Minimum lot width:** Thirty (30) feet per dwelling.
- c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- d. **Minimum rear lot line setback:** Twenty-five (25) feet.
- e. **Minimum side lot line setback:** Zero (0) feet on one (1) side with a common wall provided that:
  - i. The opposite side yard being a minimum of six (6) feet.
  - ii. Patios and decks may have a zero setback from the zero lot line side yard setback.
  - iii. Driveways may be separate or shared.
  - iv. All state and local building code requirements shall be met for a zero-lot line two-family dwelling.
  - v. Every zero lot line two-family dwelling constructed after March 24, 2020 shall be constructed with identical materials.
  - vi. For the purpose of this subsection the term “identical materials” means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.
  - vii. For the purpose of this subsection the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly

corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.

- viii. Restrictive covenants shall be recorded at the county register or deeds, providing declarations and or bylaws similar to those typically recorded on a declaration of condominium.
  1. If the driveway is shared, the maintenance and use standards for the shared driveway shall be part of said covenants.
  2. Include a note that reads, *“The parties hereto agree that the aesthetics of the units are important to the value of the building. Therefore, any subsequent repairs or maintenance performed by a unit owner to the exterior of their portion of the zero lot line two-family dwelling shall use at a minimum materials similar with those materials already incorporated into the building if identical materials are not incorporated into the repair or maintenance project. Each party may agree in writing to change the original color of the building so long as the color change applies to each unit. No party may change the color of the building so that it is different than the other unit.”*
  3. Said covenants shall provide for mediation of any and all disputes between owners of each dwelling unit and third party with regard to construction, use and maintenance of the real property.
  4. Said covenants shall specifically state the City of Appleton and all approving authorities shall not be held responsible for same, and that said covenants shall insure to all heirs and assigns.
  5. Proof of said recorded covenants or subsequently amended shall be submitted to the Community and Economic Development Department.
- ix. Each dwelling unit shall have separate sewer and water lines and other separate utility lines entering each dwelling unit and also separate sump pump.
- x. Easements shall be provided upon each lot as may be

necessary for ingress and egress, water, sewer and all other utility services.

- xi. The zero lot line parcel shall be divided by certified survey map or subdivision plat pursuant to Chapter 17 Subdivisions of the Municipal Code.
  1. A restrictive endorsement shall be placed on the face of the CSM or plat that reads, “*When zero lot line two-family dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, use, repair and maintenance shall be guarded against by private/restrictive covenants and deed restrictions, and no approving authority shall be held responsible for the enforcement of same.*”
  2. A copy of said Restrictive covenants shall be submitted with the initial application for certified survey map or subdivision plat approval.

f. ***Maximum building height:*** Thirty-five (35) feet.

(h) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**40-20**

**AN ORDINANCE AMENDING SECTION 23-112 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO C-1 NEIGHBORHOOD MIXED USE DISTRICT.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-112 of Chapter 23 of the Municipal Code of the City of Appleton, relating to C-1 neighborhood mixed use district, is hereby amended to read as follows:

**Sec. 23-112. C-1 neighborhood mixed use district.**

(a) ***Purpose.*** The C-1 district is intended to provide for mixed use areas, including a range of commercial and denser residential uses. Development is intended to be pedestrian-oriented, with businesses and services that are part of the fabric of the neighborhood and allow residents to meet daily needs on foot, bicycle, and public transit. Development standards provide added flexibility to encourage redevelopment along commercial corridors, without being detrimental to established residential neighborhoods.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the C-1 district.

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse.</li> </ul>	<ul style="list-style-type: none"> <li>• Clubs.</li> <li>• Day care, group.</li> <li>• Governmental facilities.</li> <li>• Museums.</li> <li>• Places of worship.</li> <li>• Public parks or playgrounds.</li> <li>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building.</li> </ul>	<ul style="list-style-type: none"> <li>• Commercial entertainment; excluding sexually-oriented establishments.</li> <li>• Hotel or motels.</li> <li>• Multi-tenant building.</li> <li>• Offices.</li> <li>• Painting/Craft Studio without alcohol sales.</li> <li>• Personal services.</li> <li>• Printing.</li> <li>• Professional services.</li> <li>• Restaurants (without alcohol).</li> <li>• Restaurant, fast foods.</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> <li>• Retail businesses</li> <li>• Shopping centers.</li> <li>• Urban farms pursuant to §23-66(h)(17).</li> <li>• Veterinarian clinics, with all activity within enclosed buildings and with no animals boarded overnight.</li> </ul>

(c) **Accessory uses.** Accessory uses in the C-1 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-1 district; however, new or expanded driveways, parking lots, and loading areas shall not be located between the principal building and the front lot line.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Home occupation pursuant to §23-45.
- (4) Outdoor storage and display pursuant to §23-46.
- (5) Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-1 district.

(e) **Special uses.** Special uses in the C-1 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• None.</li> </ul>	<ul style="list-style-type: none"> <li>• Educational institutions; elementary school, junior high school or high school.</li> <li>• Essential services.</li> <li>• Recreation facilities, non-profit.</li> </ul>	<ul style="list-style-type: none"> <li>• Amusement arcade.</li> <li>• Bar or Tavern pursuant to §23-66(h)(6).</li> <li>• Craft-Distillery pursuant to §23-66(h)(19).</li> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Manufacturing, custom pursuant to §23-66(h)(16).</li> <li>• Microbrewery/Brewpub pursuant to §23-66(h)(19).</li> <li>• Outdoor commercial entertainment pursuant to</li> </ul>



		<p>§23-66(h)(11).</p> <ul style="list-style-type: none"> <li>• Painting/Craft Studio with alcohol pursuant to §23-66(h)(6).</li> <li>• Parking garages.</li> <li>• Recycling collection points pursuant to §23-66(h)(14).</li> <li>• Research laboratories or testing facilities.</li> <li>• Restaurants with alcohol pursuant to §23-66(h)(6).</li> <li>• Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21)</li> <li>• Tower or antenna for telecommunication services pursuant to Article XIII.</li> <li>• Winery pursuant to §23-66(h)(21).</li> </ul>
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(f) **Site plan.** Prior to obtaining a building permit on any land in the C-1 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards; however, the number of off-street parking and loading spaces required are reduced by fifty percent (50%) for uses in the C-1 district. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(h) **Development standards.** The space limits applicable in the C-1 district are as follows:

(1) **Minimum lot area.** Six thousand (6,000) square feet.

(2) **Maximum lot coverage.** Ninety percent (90%).

(3) **Minimum lot width.** Forty (40) feet.

(4) **Minimum front yard.** None.

(5) **Minimum rear yard:**

a. Twenty (20) feet.

(6) **Minimum side yard:**

a. None.

b. Ten (10) feet if abutting a residentially zoned district.

(7) **Maximum building height.** Sixty (60) feet.

(i) **District location.** The C-1 district shall be utilized in areas identified with a future Mixed Use designation on the Comprehensive Plan Future Land Use Map.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**41-20**

**AN ORDINANCE AMENDING SECTION 23-113(b) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO C-2 GENERAL COMMERCIAL DISTRICT; PRINCIPAL PERMITTED USES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-113(b) of Chapter 23 of the Municipal Code of the City of Appleton, relating to C-2 general commercial district; principal permitted uses, is hereby amended to read as follows:

**Sec. 23-113. C-2 general commercial district.**

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the C-2 district:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• Assisted living or retirement homes.</li> <li>• Nursing or convalescent homes.</li> </ul>	<ul style="list-style-type: none"> <li>• Clubs.</li> <li>• Day care, group.</li> <li>• Educational institutions; business, technical or vocational school.</li> <li>• Educational institutions; college or university.</li> <li>• Governmental facilities.</li> <li>• Hospitals.</li> <li>• Marina or boat landings.</li> <li>• Museums.</li> <li>• Places of worship.</li> <li>• Public parks or playground.</li> <li>• Recreation facilities; non-profit.</li> <li>• Registered historic places open to the public and</li> </ul>	<ul style="list-style-type: none"> <li>• Automobile maintenance shops.</li> <li>• Commercial entertainment; excluding sexually-oriented establishments.</li> <li>• Drive through facilities pursuant to §23-49.</li> <li>• Greenhouses or greenhouse nurseries.</li> <li>• Hotel or motels.</li> <li>• Manufacturing, custom pursuant to §23-66(h)(16).</li> <li>• Multi-tenant building.</li> <li>• Offices.</li> <li>• Painting/Craft Studio without alcohol sales.</li> </ul>

	<p>having retail space occupying not more than 10% of the gross floor area of the building.</p>	<ul style="list-style-type: none"> <li>• Parking lots.</li> <li>• Personal services.</li> <li>• Printing.</li> <li>• Professional services.</li> <li>• Restaurants (without alcohol).</li> <li>• Restaurants, fast food.</li> <li>• Retail businesses.</li> <li>• Shopping centers.</li> <li>• Towing businesses pursuant to §23-66(h)(15).</li> <li>• Urban farms pursuant to 23-66(h)(17).</li> <li>• Veterinarian clinics.</li> </ul>
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**Section 2:** This ordinance shall be in full force and effect from and after its passage and publication.

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**42-20**

**AN ORDINANCE AMENDING SECTION 23-113(e) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO C-2 GENERAL COMMERCIAL DISTRICT; SPECIAL USES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-113(e) of Chapter 23 of the Municipal Code of the City of Appleton, relating to C-2 general commercial district; special uses, is hereby amended to read as follows:

**Sec. 23-113. C-2 general commercial district.**

(e) *Special uses.* Special uses in the C-2 district may include:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• None.</li> </ul>	<ul style="list-style-type: none"> <li>• Educational institutions; elementary school, junior high school or high school.</li> <li>• Essential services.</li> <li>• Golf courses. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure.</li> </ul>	<ul style="list-style-type: none"> <li>• Amusement arcades.</li> <li>• Any principal building that exceeds thirty-five (35) feet in height.</li> <li>• Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5).</li> <li>• Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to §23-66(h)(5).</li> <li>• Bar or taverns pursuant to §23-66(h)(6).</li> <li>• Body repair and/or paint shops pursuant to §23-66(h)(4).</li> <li>• Bus terminals.</li> <li>• Car washes.</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> <li>• Circus or carnivals. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7).</li> <li>• Craft-Distillery pursuant to §23-66(h)(19).</li> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Freight distribution and/or moving centers.</li> <li>• Gasoline sales pursuant to §23-66(h)(8).</li> <li>• Helicopter landing pads pursuant to §23-66(h)(9).</li> <li>• Indoor kennels.</li> <li>• Landscape business.</li> <li>• Manufacturing, light.</li> <li>• Microbrewery/ Brewpub pursuant to §23-66(h)(19).</li> <li>• Mobile home sales lots.</li> <li>• Outdoor commercial entertainment pursuant to §23-66(h)(11).</li> <li>• Painting/Craft Studio with alcohol sales pursuant to §23-66(h)(6).</li> <li>• Parking garages.</li> <li>• Recycling collection points pursuant to §23-66(h)(14).</li> <li>• Recycling and waste recovery centers pursuant to §23-66(h)(13).</li> <li>• Research laboratories or testing facilities.</li> <li>• Restaurants with alcohol pursuant to §23-66(h)(6).</li> <li>• Sexually-oriented establishments pursuant to Article XII.</li> <li>• Shelter facility.</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> <li>• Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21)</li> <li>• Towers or antennas for wireless telecommunication services, pursuant to Article XIII.</li> <li>• Wholesale facilities.</li> <li>• Winery pursuant to §23-66(h)(21).</li> </ul>

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

Dated: March 18, 2020

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

\_\_\_\_\_  
Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
 Office of the City Clerk

**43-20**

**AN ORDINANCE AMENDING SECTION 23-114(b) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO CBD CENTRAL BUSINESS DISTRICT; PRINCIPAL PERMITTED USES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-114(b) of Chapter 23 of the Municipal Code of the City of Appleton, relating to CBD central business district; principal permitted uses, is hereby amended to read as follows:

**Sec. 23-114. CBD central business district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the CBD:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• Assisted living or retirement homes.</li> <li>• Nursing or convalescent homes.</li> <li>• Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse; however, residential uses are prohibited on the ground floor for any lot with frontage on College Avenue or within 120 feet of College Avenue frontage.</li> </ul>	<ul style="list-style-type: none"> <li>• Clubs.</li> <li>• Day care, group.</li> <li>• Educational institutions; college or university.</li> <li>• Governmental facilities.</li> <li>• Museums.</li> <li>• Places of worship.</li> <li>• Public park or playgrounds.</li> <li>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building.</li> </ul>	<ul style="list-style-type: none"> <li>• Automobile maintenance shops.</li> <li>• Commercial entertainment; excluding sexually-oriented establishments.</li> <li>• Drive through facilities pursuant to §23-49.</li> <li>• Hotel or motels.</li> <li>• Multi-tenant building.</li> <li>• Offices.</li> <li>• Painting/Craft Studio without alcohol sales.</li> <li>• Personal services.</li> <li>• Printing.</li> <li>• Professional services.</li> <li>• Restaurants (without alcohol).</li> </ul>



		<ul style="list-style-type: none"><li>• Restaurant, fast foods.</li><li>• Retail businesses.</li><li>• Shopping centers.</li><li>• Urban farms pursuant to §23-66(h)(17)</li><li>• Veterinarian clinics.</li></ul>
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**Section 2:** This ordinance shall be in full force and effect from and after its passage and publication.

Dated: March 18, 2020

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

\_\_\_\_\_  
Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
 Office of the City Clerk

**44-20**

**AN ORDINANCE AMENDING SECTION 23-114(e) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO CBD CENTRAL BUSINESS DISTRICT; SPECIAL USES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-114(e) of Chapter 23 of the Municipal Code of the City of Appleton, relating to CBD central business district; special uses, is hereby amended to read as follows:

**Sec. 23-114. CBD central business district.**

(e) *Special uses.* Special uses in the CBD district may include:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• None.</li> </ul>	<ul style="list-style-type: none"> <li>• Educational institution; elementary school, junior high school or high school.</li> <li>• Essential services.</li> <li>• Hospital.</li> <li>• Marina and/or boat landing.</li> </ul>	<ul style="list-style-type: none"> <li>• Amusement arcade.</li> <li>• Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5).</li> <li>• Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles pursuant to §23-66(h)(5).</li> <li>• Bar or Tavern pursuant to §23-66(h)(6).</li> <li>• Body repair and/or paint shop pursuant to §23-66(h)(4).</li> <li>• Bus terminal.</li> <li>• Craft-Distillery pursuant to §23-66(h)(19).</li> <li>• Electronic towers pursuant to §23-66(h)(1)</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> <li>• Gasoline sales pursuant to §23-66(h)(8).</li> <li>• Indoor kennel.</li> <li>• Manufacturing, custom pursuant to §23-66(h)(16).</li> <li>• Microbrewery/ Brewpub pursuant to §23-66(h)(19).</li> <li>• Outdoor commercial entertainment pursuant to §23-66(h)(11).</li> <li>• Painting/Craft Studio with alcohol sales pursuant to §23-66(h)(6).</li> <li>• Parking garage.</li> <li>• Parking lot; however, surface lots are prohibited on lots fronting on College Avenue.</li> <li>• Recycling collection point pursuant to §23-66(h)(14).</li> <li>• Research laboratories or testing facilities.</li> <li>• Restaurant with alcohol pursuant to §23-66(h)(6).</li> <li>• Shelter facility.</li> <li>• Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21)</li> <li>• Towers or antennas for wireless telecommunication services pursuant to Article XIII.</li> <li>• Wholesale facility.</li> <li>• Winery pursuant to §23-66(h)(21).</li> </ul>

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**45-20**

**AN ORDINANCE AMENDING SECTION 23-131(b) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO M-1 INDUSTRIAL PARK DISTRICT; PRINCIPAL PERMITTED USES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-131(b) of Chapter 23 of the Municipal Code of the City of Appleton, relating to M-1 industrial park district; principal permitted uses, is hereby amended to read as follows:

**Sec. 23-131. M-1 industrial park district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the M-1 district, subject to any contracts, agreements, covenants, restrictions and leases the City maintains on City-owned industrial properties.

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• None.</li> </ul>	<ul style="list-style-type: none"> <li>• Governmental facilities.</li> <li>• Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building.</li> </ul>	<ul style="list-style-type: none"> <li>• Agriculture.</li> <li>• Brewery pursuant to §23-66(h)(20).</li> <li>• Commercial entertainment.</li> <li>• Community garden.</li> <li>• Craft-Distillery pursuant to §23-66(h)(19).</li> <li>• Distillery pursuant to §23-66(h)(20).</li> <li>• Freight distribution or moving centers.</li> <li>• Manufacturing, light.</li> <li>• Microbrewery/Brewpub pursuant to §23-66(h)(19).</li> <li>• Offices.</li> <li>• Multi-tenant buildings.</li> <li>• Printing.</li> </ul>

		<ul style="list-style-type: none"><li>• Research laboratory or testing facilities.</li><li>• Urban farms pursuant to §23-66(h)(17).</li><li>• Warehouses.</li><li>• Wholesale facilities.</li><li>• Winery pursuant to §23-66(h)(21).</li></ul>
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**Section 2:** This ordinance shall be in full force and effect from and after its passage and publication.

Dated: March 18, 2020

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

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**46-20**

**AN ORDINANCE AMENDING SECTION 23-131(c) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO M-1 INDUSTRIAL PARK DISTRICT; ACCESSORY USES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-131(c) of Chapter 23 of the Municipal Code of the City of Appleton, relating to M-1 industrial park district; accessory uses, is hereby amended to read as follows:

**Sec. 23-131. M-1 industrial park district.**

(c) ***Accessory uses.*** Accessory uses in the M-1 district may include:

- (6) Showrooms and incidental retail sales provided as follows, unless otherwise stated in this chapter:
  - a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
  - b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
  - c. The industrial character of the property is maintained.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
 Office of the City Clerk

**47-20**

**AN ORDINANCE AMENDING SECTION 23-132(b) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO M-2 GENERAL INDUSTRIAL DISTRICT; PRINCIPAL PERMITTED USES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-132(b) of Chapter 23 of the Municipal Code of the City of Appleton, relating to M-2 general industrial district; principal permitted uses, is hereby amended to read as follows:

**Sec. 23-132. M-2 general industrial district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the M-2 district:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• None.</li> </ul>	<ul style="list-style-type: none"> <li>• Governmental facilities.</li> <li>• Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building.</li> </ul>	<ul style="list-style-type: none"> <li>• Automobile maintenance shops.</li> <li>• Body repair and/or paint shops pursuant to §23-66(h)(4).</li> <li>• Brewery pursuant to §23-66(h)(20).</li> <li>• Bus terminals.</li> <li>• Craft-Distillery pursuant to §23-66(h)(19).</li> <li>• Commercial entertainment.</li> <li>• Commercial truck body repair or paint shops.</li> <li>• Commercial truck maintenance shops.</li> <li>• Community garden.</li> <li>• Distillery pursuant to §23-66(h)(20).</li> <li>• Freight distribution or</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		moving centers. <ul style="list-style-type: none"> <li>• Landscape businesses.</li> <li>• Manufacturing, light.</li> <li>• Microbrewery/Brewpub pursuant to §23-66(h)(19).</li> <li>• Multi-tenant buildings.</li> <li>• Offices.</li> <li>• Personal storage facility (self storage/mini-warehouse), including outdoor storage areas for recreational vehicles pursuant to §23-66(h)(18).</li> <li>• Printing.</li> <li>• Research laboratories or testing facilities.</li> <li>• Towing businesses pursuant to §23-66(h)(15).</li> <li>• Truck or heavy equipment sales or rental.</li> <li>• Urban farms pursuant to §23-66(h)(17).</li> <li>• Warehouses.</li> <li>• Wholesale facilities.</li> <li>• Winery pursuant to §23-66(h)(21).</li> </ul>

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

Dated: March 18, 2020

---

Timothy M. Hanna, Mayor

---

Kami Lynch, City Clerk



**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**48-20**

**AN ORDINANCE AMENDING SECTION 23-132(c) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO M-2 GENERAL INDUSTRIAL DISTRICT; ACCESSORY USES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-132(c) of Chapter 23 of the Municipal Code of the City of Appleton, relating to M-2 general industrial district; accessory uses, is hereby amended to read as follows:

**Sec. 23-132. M-2 general industrial district.**

(c) ***Accessory uses.*** Accessory uses in the M-2 district may include:

- (7) Showrooms and incidental retail sales provided as follows, unless otherwise stated in this chapter:
  - a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
  - b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
  - c. The industrial character of the property is maintained.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**49-20**

**AN ORDINANCE AMENDING SECTION 23-172(d)(1) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO OFF-STREET PARKING AND LOADING STANDARDS; EXCEPTIONS TO DESIGN STANDARDS.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-172(d)(1) of Chapter 23 of the Municipal Code of the City of Appleton, relating to off-street parking and loading standards; exceptions to design standards, is hereby amended to read as follows:

**Sec. 23-172. Off-street parking and loading standards.**

(d) ***Exceptions to design standards.*** The following are exempt from the design standards of this chapter.

- (1) Due to the primarily pedestrian orientation of the Central Business District (CBD), provision for off-street parking and loading spaces are not required for uses in the CBD. However, new or expanded parking lots and loading areas in the CBD shall comply with the off-street parking and loading requirements of this section, including standards governing design, interior landscaping, and perimeter landscaping.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**50-20**

**AN ORDINANCE AMENDING SECTION 23-172(e)(3) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO OFF-STREET PARKING AND LOADING STANDARDS; DESIGN STANDARDS; MANEUVERING**  
(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-172(e)(3) of Chapter 23 of the Municipal Code of the City of Appleton, relating to off-street parking and loading standards; design standards; maneuvering, is hereby amended to read as follows:

**Sec. 23-172. Off-street parking and loading standards.**

(e) ***Design standards.*** All off-street parking spaces and off-street parking lots or areas shall conform to the following design requirements, unless otherwise stated in this chapter:

- (3) ***Maneuvering.*** All off-street parking spaces shall be designed to provide all maneuvering to occur within the property line(s). Vehicles shall not back into the public right-of-way from an off-street parking lot or parking space. Alleys are an exception to this provision, as maneuvering may occur within alley right-of-way when authorized by the Director of the Department of Public Works or designee.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**51-20**

**AN ORDINANCE AMENDING SECTION 23-172(f) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO OFF-STREET PARKING AND LOADING STANDARDS; INTERIOR PARKING LOT LANDSCAPING.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-172(f) of Chapter 23 of the Municipal Code of the City of Appleton, relating to off-street parking and loading standards; interior parking lot landscaping, is hereby amended to read as follows:

**Sec. 23-172. Off-street parking and loading standards.**

(f) ***Interior parking lot landscaping.***

- (1) All parking lots designed for twenty (20) or more parking spaces shall be landscaped in accordance with the following interior parking lot standards.
  - a. Five percent (5%) of the minimum square footage of the paved area of the off-street parking lot shall be devoted to interior landscape islands.
  - b. The primary plant materials shall be shade or ornamental trees with at least one (1) shade tree for every two hundred (200) square feet of interior landscape island area, except in cases where drainage, stormwater, or utility features preclude the planting of trees.
  - c. The interior landscape islands shall be dispersed throughout the off-street parking lot to the satisfaction of the Community and Economic Development Director.
- (2) All off-street parking lots designed for nineteen (19) off-street parking spaces or less shall provide landscaping as deemed appropriate by the Community and Economic Development Director.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

52-20

**AN ORDINANCE AMENDING SECTION 23-172(j) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO OFF-STREET PARKING AND LOADING STANDARDS; DETERMINATION OF REQUIRED OFF-STREET PARKING SPACES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-172(j) of Chapter 23 of the Municipal Code of the City of Appleton, relating to off-street parking and loading standards; determination of required off-street parking spaces, is hereby amended to read as follows:

**Sec. 23-172. Off-street parking and loading standards.**

(j) ***Determination of required off-street parking spaces.*** In computing the number of off-street parking spaces required by this chapter, the following shall apply:

- (1) Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross square footage of all floors that may be occupied of a building.
- (2) Where maximum capacity is designated as the standard for determining off-street parking space requirements, the maximum capacity shall mean the maximum number of persons permitted to occupy the building under the International Building Code (IBC) and the International Fire Code (IFC), whichever is more restrictive, currently used by the City.
- (3) Where the number of employees is designated as the standard for determining off-street parking space requirements, the number of employees on the largest shift shall be used for calculation purposes.
- (4) Fractional numbers shall be increased to the next highest whole number.
- (5) An applicant may request an administrative adjustment for a reduction in the number of parking spaces required by §23-172(m). The request shall be submitted in writing and provide justification for the reduction,

including estimates of parking demand or other acceptable data as approved by the Community and Economic Development Director. Sources of data may include, but are not limited to, the Institute of Transportation Engineers or Urban Land Institute. Community and Economic Development staff may approve up to a twenty percent (20%) reduction. Any reductions greater than 20% shall require a variance from the Board of Appeals.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**53-20**

**AN ORDINANCE AMENDING SECTION 23-172(m) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO OFF-STREET PARKING AND LOADING STANDARDS; REQUIRED SPACES FOR SPECIFIC USES.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-172(m) of Chapter 23 of the Municipal Code of the City of Appleton, relating to off-street parking and loading standards; required spaces for specific uses, is hereby amended to read as follows:

**Sec. 23-172. Off-street parking and loading standards.**

(m) ***Required spaces for specific uses.*** All vehicles connected with the following uses shall be accommodated for on the property in addition to the requirements stated below unless otherwise stated in this chapter. Additional parking as determined by the Community and Economic Development Director may be required to meet these standards. The table on the following page identifies the minimum number of off-street parking spaces to be provided.

<b>Use Type</b>	<b>Minimum Off-Street Parking Spaces Required</b>
<b>Residential</b>	
Dwelling, single-family detached and zero lot line two-family dwellings	Up to three (3) bedrooms - Two (2) spaces for each dwelling unit
	Four (4) or more bedrooms – Three (3) spaces for each dwelling unit

<b>Use Type</b>	<b>Minimum Off-Street Parking Spaces Required</b>
<b>Commercial</b>	
Craft-Distillery	One (1) space for each three (3) persons based on maximum capacity.
Microbrewery/Brewpub	One (1) space for each three (3) persons based on maximum capacity
Painting/Craft Studios	One (1) space for each three (3) persons allowed based on maximum capacity.
Tasting Room	One (1) space for each three (3) persons allowed based on maximum capacity.



Use Type	Minimum Off-Street Parking Spaces Required
<b>Commercial</b>	
Winery	One (1) space for each three (3) persons based on maximum capacity.

Use Type	Minimum Off-Street Parking Spaces Required
<b>Industrial</b>	
Brewery	One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith.
Distillery	One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith.

*\*Please Note: Only those uses with changes are included in this ordinance. All others remain the same.*

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**54-20**

**AN ORDINANCE AMENDING SECTION 23-422(a) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO SPECIAL USE PERMIT REQUIREMENTS.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-422(a) of Chapter 23 of the Municipal Code of the City of Appleton, relating to special use permit requirements, is hereby amended to read as follows:

**Sec. 23-422. Special use permit requirements.**

(a) A telecommunication antenna system that requires construction of a new tower or co-location on an existing tower not previously granted a special use permit will require the petitioner to apply for a special use permit.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**55-20**

**AN ORDINANCE AMENDING SECTION 23-570 OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO SITE PLAN REVIEW AND APPROVAL.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-570 of Chapter 23 of the Municipal Code of the City of Appleton, relating to site plan review and approval, is hereby amended to read as follows:

**Sec. 23-570. Site plan review and approval.**

(a) ***Purpose and intent.*** A site plan review of certain new construction, rehabilitation of buildings, additions to structures, related site work and landscape development is required in order to further promote the safe and efficient use of land and to further enhance the value of property in the City. The site plan review process is intended to help ensure that newly developed properties, expanded structures or redeveloped properties are compatible with adjacent development and safety, traffic, overcrowding and environmental problems are minimized to the extent possible.

The site plan review requirements of this section are designed to ensure the orderly and harmonious development of property in the City in a manner that shall:

- (1) Promote the most beneficial relationship between adjacent land uses.
- (2) Facilitate efficient and safe circulation of traffic both on the site and as it interfaces with the public right-of-way and adjacent properties.
- (3) Permit development to a level commensurate with the availability and capacity of public facilities and services.
- (4) Encourage adequate provision for surface and subsurface drainage.
- (5) Provide appropriate screening of parking, truck loading, refuse containers, mechanical equipment and outdoor storage areas from adjacent residential districts and public rights-of-way.

(b) ***No minor site plan or site plan review is required.***

(1) ***Change in existing building or structure:***

When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . .	And the proposed gross floor area of the addition or expansion of the existing building, structure or use, except for parking lots or parking spaces is . . .
0-10,000 square feet	Less than 1,000 square feet
10,001-25,000 square feet	Less than 2,500 square feet
25,001-50,000 square feet	Less than 5,000 square feet
50,001 square feet and over	Less than 7,500 square feet

- a. While no minor site plan or site plan review is required for the above addition or expansions, the addition or expansion is still subject to all applicable provisions of this chapter including but not limited to: lot coverage, setbacks, building height, parking, loading, signage and lighting.
- b. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for the above referenced addition or expansions pursuant to this section shall submit all proposed plans and specifications to the Inspection Division along with the completed building permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(2) ***Maintenance, overlay, resurfacing of an existing off-street parking lot and loading area.***

- a. While no minor site plan or site plan review is required for maintenance, overlay and resurfacing of an existing off-street parking lot and loading area, the maintenance, overlay or resurfacing activity is still subject to all applicable provisions of this chapter.
- b. Off-street parking lot and loading area maintenance (patching). Fifteen percent (15%) or less than the total square foot area of an existing off-street parking lot and/or loading area is allowed to be

patched per calendar year without submittal of a minor site plan or site plan.

- c. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for maintenance, overlay or resurfacing of an off-street parking lot and loading area pursuant to this section shall submit all proposed plans and specifications to the Inspection Division along with the completed permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(c) ***Minor site plan review and site plan review.*** In order to minimize submission requirements and expedite final approval for certain projects, there shall be two (2) types of site plan review: minor and major.

Minor site plan review shall be subject to review and approval by the Community and Economic Development Director and will require only that information identified in §23-570(g), Minor site plan required information, as deemed necessary by the Community and Economic Development Director to make an informed decision.

Site plan review shall be subject to the review and approval of the Community and Economic Development Director pursuant to ***all*** submission requirements of this section.

(1) ***Development subject to minor site plan review.***

- a. Accessory buildings and/or structures, not including off-street parking lots or loading areas, that are 2,500 square feet or greater in size; except when associated with one-(1) or two-(2) family dwellings, unless when required per Certified Survey Map, Subdivision Plat, or the like.
- b. Personal wireless facilities as identified in §23-422(b)(1)-(3).
- c. Construction, reconstruction, rehabilitation and expansion of off-street parking lots and loading areas that consist of less than twenty (20) parking spaces or loading spaces.

(2) ***Development subject to site plan review.***

- a. The following new principal buildings, uses, building additions, or structures in any zoning district; except for one-(1) and two-(2) family dwellings or accessory buildings, structures, or uses when associated with or located within one-(1) and two-(2) family dwellings, unless required per Certified Survey Map, Subdivision Plat, or the like:
1. Any new principal buildings or structures.
  2. Additions to existing principal buildings, structures or uses except single and two (2) family dwellings and accessory buildings, structures, or uses as established in the table below:

When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . .	And the proposed gross floor area of the addition or expansion of the existing building, structure or use except for parking lots or parking spaces is . . .
0-10,000 square feet	1,000 square feet or greater
10,001-25,000 square feet	2,500 square feet or greater
25,001-50,000 square feet	5,000 square feet or greater
50,001 square feet and over	7,500 square feet or greater

3. Construction, reconstruction, rehabilitation and/or expansion of off-street parking lots and loading areas that consist of twenty (20) or more parking spaces or loading spaces.
4. Off-street parking lot and loading area reconstruction (patching). Reconstruction (patching) of off-street parking lots and loading areas that affects greater than fifteen percent (15%) of the total square foot area of an existing off-street parking lot and/or loading area per calendar year.

(d) **Authority.** The Community and Economic Development Director is hereby charged with the duty of performing site plan review and granting site plan approval for minor site plans and site plans.

(e) **Procedure.** Whenever any property owner or individual having a contractual interest proposes to develop/redevelop any tract or parcel of land where site plan review is required, that person shall submit to the Community and Economic Development Director a request for minor site plans or site plan approval.

- (1) **Presubmittal meeting.** To ensure the correct submission of a minor site plan or site plan and to identify the requirements for a complete

application, applicants shall attend a presubmittal meeting with the City Community and Economic Development staff prior to submitting an application for site plan review. The applicant will discuss with staff the submission requirements for minor site plan and site plan review. The Community and Economic Development Director shall have the authority to waive the presubmittal meeting, if necessary.

- (2) ***Submission of application.*** All required information shall be submitted to the Community and Economic Development Director for review and processing. Within fifteen (15) business days after the submittal and acceptance of a complete application, and after notification to the Alderperson of the appropriate district and in consultation with other City officials, the Community and Economic Development Director shall, in a written decision, state the findings of the Site Plan Review Committee. Upon approval, approval with modifications or conditional approval, a building permit may be issued.
- (3) ***Request of additional information.*** If in the judgment of the reviewing authority, the site plan application does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the fifteen (15) business day period referred to above shall be suspended pending the receipt of all information requested.
- (4) ***Issuance of Building Permit.*** No building permit shall be issued by the City until site plan approval has been granted as provided in this section, unless otherwise authorized by the Director of the Department of Public Works.

(f) ***Fees and structure.*** Fees for site plan review shall be established by the City to cover the cost of this review. This fee may include passing along review costs of consultants or agencies that may be requested for review of site plans under unique circumstances such as traffic impact studies or stormwater management plans.

(g) ***Minor site plan required information.*** Minor Site Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 11"x17" or a previously approved site plan may be used and submitted. A total of five (5) complete sets shall be submitted to the Community and Economic Development Director.

- (1) All Minor Site Plans shall include as a minimum all of the information as required on a form provided by the Department of Community and Economic Development.
- (2) The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.

(h) **Site plan required information.** Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 24" x 36". A total of five (5) complete folded sets shall be submitted to the Community and Economic Development Director.

- (1) All Site Plans shall include, as a minimum, all of the information as required on a form provided by the Department of Community and Economic Development.
- (2) The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.

(i) **Scope of review.** The Department of Community and Economic Development, when evaluating minor site plans or site plans, will review:

- (1) The relationship of the site plan to adopted land use plans and policies.
- (2) Parking layout so as to:
  - a. Minimize dangerous traffic movements.
  - b. Achieve efficient traffic flow in accordance with standards in the Institute of Traffic Engineers Transportation and Traffic Engineering Handbook.
  - c. Provide for the optimum number of parking spaces, while maintaining City design standards.
  - d. Provide for pedestrian safety.
- (3) Provisions for surface and subsurface drainage and for connections to water and sewer lines, so not to overload existing public utility lines nor increase the danger of erosion, flooding, landslide or other endangerment of adjacent or surrounding properties.
- (4) Landscaping, so as to:
  - a. Maintain existing mature trees and shrubs to the maximum extent practicable. Where practical, the property owner shall make every effort to preserve and retain existing trees and vegetation on the site when designing for the development or redevelopment of the site during design, construction and after construction.
  - b. Buffer adjacent incompatible uses.



- c. Screen unsightly activities from public view.
  - d. Break up large expanses of asphalt and buildings with plant material.
  - e. Provide an aesthetically pleasing landscaping design.
  - f. Provide plant materials and landscaping designs that can withstand the City's climate and the microclimate on the property.
- (5) Location of principal structures, accessory structures, lighting, freestanding signs, refuse containers, mechanical equipment, etc. so that their location and proportion does not impede safe and efficient traffic flow or adversely impact the development of adjacent property or the character of the surrounding neighborhood.
  - (6) All electrical, telephone and cable lines shall be placed underground whenever practical.
  - (7) Compliance with this chapter, the subdivision regulations, the stormwater management ordinance, erosion control ordinance and stormwater utility of the City of Appleton.

(j) ***Validity of approval, expiration and revisions to site plan.*** A site plan shall become effective upon obtaining certification of approval by the Community and Economic Development Director on the minor site plan or site plan application and the signature of the Director on the approved plans (revised if necessary).

The approval of any site plan required by this section shall remain valid for one (1) year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this article, "actual construction" shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property or stockpiling of materials on the site shall not constitute actual construction.

An approved site plan shall remain in effect until it is supplanted by a new site plan or is deemed null and void as identified above. A revision to a site plan may be requested by submitting the changes in writing or on a copy of the approved site plan to the Community and Economic Development Director. The Community and Economic Development Director may approve, approve with conditions, deny the requested revision(s) or determine that a new site plan is needed.

Cases that require an extension of time by the applicant can be submitted to the Community and Economic Development Director, in writing, for consideration. In no case, however, shall an extension of time exceed one (1) year.

(k) **Appeal.** If the Community and Economic Development Director denies the application for a site plan or approves the site plan with conditions, the applicant may appeal the decision to the Plan Commission. A notice of appeal must be filed with the Community and Economic Development Director no later than fifteen (15) days after receipt by the applicant of the decision of the Community and Economic Development Director. Failure by an applicant to file an appeal in accordance with the foregoing provisions shall be deemed to constitute a withdrawal of the application for a site plan.

The Plan Commission shall act as promptly as practical on any appeal taken in connection with the proposed site plan. The Plan Commission shall approve, approve with conditions or disapprove the site plan by action taken by a majority of the Plan Commission present at any meeting at which a quorum is present. If the Plan Commission approves the site plan, a building permit may then be issued, provided that all other requirements of all other applicable City codes and ordinances are satisfied.

(l) **Violation.** Construction or other activities contrary to the approved site plan, or in the absence of an approved plan, shall be a violation of this section.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**56-20**

**AN ORDINANCE AMENDING SECTION 23-601(f)(2) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO LANDSCAPING AND SCREENING STANDARDS; DESIGN CRITERIA.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-601(f)(2) of Chapter 23 of the Municipal Code of the City of Appleton, relating to landscaping and screening standards; design criteria, is hereby amended to read as follows:

**Sec. 23-601 Landscaping and Screening Standards.**

(f) ***Design Criteria.*** Landscape plans shall be prepared, evaluated and approved based on design criteria as identified below.

- (2) Any landscaping located within the front setback, in a required vision corner or within ten (10) feet of a private driveway (§23-50 (g), Vision corner), shall have the following restrictions:
  - a. Shrubs shall be maintained at a height of no greater than three (3) feet.
  - b. Trees must have a clearance from the ground to the bottom of the first branch of a minimum of six (6) feet.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk

**ADOPTED: March 18, 2020**  
**PUBLISHED: March 23, 2020**  
Office of the City Clerk

**57-20**

**AN ORDINANCE AMENDING SECTION 23-601(f)(3) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO LANDSCAPING AND SCREENING STANDARDS; DESIGN CRITERIA.**

(City Plan Commission – 3/18/2020)

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

**Section 1:** That Section 23-601(f)(3) of Chapter 23 of the Municipal Code of the City of Appleton, relating to landscaping and screening standards; design criteria, is hereby amended to read as follows:

**Sec. 23-601 Landscaping and Screening Standards.**

(f) ***Design Criteria.*** Landscape plans shall be prepared, evaluated and approved based on design criteria as identified below.

- (3) Side yard screening located within ten (10) feet of the street right-of-way or private driveway must not exceed three (3) feet in height. For other side and rear yard screening requirements, see §23-50(g), Vision corner.

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

Dated: March 18, 2020

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Timothy M. Hanna, Mayor

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Kami Lynch, City Clerk