



NORTHEAST BUSINESS PARK

QUALITY ATTRACTS QUALITY

DECLARATION OF COVENANTS AND RESTRICTIONS

APPLICABLE TO ALL PROPERTIES SOLD IN
NORTHEAST BUSINESS PARK NO. 3

This conveyance is made subject to the following conditions, covenants, and understandings, which shall be binding upon the vendee and his/her heirs, successors, and assigns:

1. ***Statement of Purpose:***

The general purpose of this Declaration is to help assure that the Development will become and remain an attractive place to do business; to insure the most appropriate improvement of each Lot; to guard against the erection thereon of poorly designed or poorly proportioned structures; and to promote and maintain the highest and best uses of the lands commensurate with the zoning and the use classifications and demographics of this Development.

2. ***Land Uses and Development Standards:***

Lots 27, 28, 32, 33, 34

A. Permitted Uses include:

1. Offices;
2. Professional Services, except as provided for in Section 23-113(e), special uses;
3. Personal Services, except as provided for in Section 23-113(e), special uses;
4. Medical Clinic;
5. Optical and Pharmaceutical Sales Incidental to a Clinic;
6. Parking Lot, Surface.

B. Accessory Uses include:

1. Refuse containers and enclosures.

C. Special Uses include:

1. Any building that exceeds 35 feet in height.
2. Day Care as an accessory use to office.

D. Building Height shall not exceed 35 feet.

E. **Setbacks** shall be as follows: *

1. Front - 20 feet
2. Rear - 25 feet
3. Sides - 10 feet
4. Parking - 15 feet

* All buildings must be set back a minimum of 80' from U. S. 41 street right of way.

Lots 29, 30

A. **Permitted Uses** include:

1. Offices;
2. Professional Services, except as provided for in Section 23-113(e), special uses;
3. Personal Services, except as provided for in Section 23-113(e), special uses;
4. Parking Lot, Surface.

B. **Accessory Uses** include:

1. Refuse containers and enclosures.

B. **Special Uses** include:

1. Any building that exceeds 35 feet in height.
2. Day Care as an accessory use to office.

D. **Building Height** shall not exceed 35 feet.

E. **Setbacks** shall be as follows:*

1. Front - 50 feet
2. Rear - 50 feet
3. Sides - 25 feet
4. Parking - 15 feet

* All buildings must be set back a minimum of 80' from U. S. 41 street right of way.

Lot 31

A. **Permitted Uses** include:

1. Offices;
2. Professional Services, except as provided for in Section 23-113(e), special uses;
3. Personal Services, except as provided for in Section 23-113(e), special uses;
4. Medical Clinic;
5. Optical and Pharmaceutical Sales Incidental to a Clinic;
6. Full Service Hotel;
7. Full Service Restaurant with or without alcohol (No Drive Through);
8. Parking Lot, Surface.

B. Accessory Uses include:

1. Refuse containers and enclosures.

C. Special Uses include:

1. Any building that exceeds 35 feet in height.
2. Microbrewery Incidental to a Full Service Restaurant.
3. Day Care as an accessory use to office.

D. Building Height shall not exceed 35 feet.

E. Setbacks shall be as follows:

1. Front - 20 feet
2. Rear - 25 feet
3. Sides - 10 feet
4. Parking - 15 feet

Other land uses may be considered for approval by the Community Development Committee if a determination is made that the project fits the development objectives of the City.

3. *Nuisance Factors and Hazards:*

- A. In order to protect the interests of all Tenants, no operation shall be conducted which emits offensive or objectionable noise, vibration, smoke, odors, dust, or gases. Precautions should be taken in all research and other approved operations for radiation, radioactivity, fire, and explosion hazards.
- B. No fuel or chemical in-ground or outdoor storage shall be allowed in the Park.

4. *Building Standards:*

- A. Any building erected shall be at least 7,500 square feet in area and have a gross floor area equal to at least 10 percent of the land area.
- B. The maximum ratio of building area (footprint) to total parcel size shall in no event exceed forty (40) percent, exclusive of parking and loading areas. The building footprint, all parking, driveways, and loading areas, when combined, may not exceed seventy (70) percent of the total Parcel size.
- C. Buildings shall be designed by an Architect or Engineer. Complete architectural design must be given to all façades of all buildings with all sides and rear elevations being given architectural treatment compatible with the front elevation of the building.
- D. This Business Park encourages a variety of architectural styles. However, it is intended that a basic harmony of architecture prevail among the buildings so that no one structure detract from the attractiveness of the overall development.

- E. The majority of exterior and externally visible opaque surfaces shall be constructed of not more than three of the following types of materials (provided, however, that such list shall not be deemed to exclude the use of other accent or exterior trim materials, glass and glazing, and earth berms):
1. Brick;
 2. Architectural precast concrete panels (surface finish to be painted, stained or exposed aggregate). When using concrete panels as an exterior surface the architect should be careful to avoid a monolithic or monotonous appearance and the use of various textures, colors and accents will be encouraged.
 3. Decorative face concrete block. When using decorative face concrete block as an exterior surface the architect should be careful to avoid a monolithic or monotonous appearance and the use of different types and textures (split face, fluted, scored or striated) to provide variety and relief will be encouraged.
 4. Cut natural stone;
 5. Exterior insulation and finish systems (EFIS);
 6. Other building materials being developed and to be developed by the construction industry. The use of such materials will be reviewed by the Site Plan Review Committee on a case-by-case basis.
- F. Building materials will be selected for their ability to present a visual statement of a building or structure's strength, attractiveness, and permanence. The building materials used shall be harmonious with the natural environment and with the general character of other buildings and structures in the Park.
- G. Metal trim materials may be used when in keeping with the architectural and aesthetic character of the building or structure.
- H. Ancillary structures will be approved by the Community Development Committee. Approval may be granted only if such structures are necessary to the principal use of the building site, are in architectural and aesthetic conformance with other buildings or structures on the site, are properly screened, meet all requirements of these covenants and are otherwise satisfactory to the Community Development Committee at its sole discretion.

5. ***Site Plan Requirements:***

- A. No lot shall contain more than one primary commercial or office building, and no more than one attached or detached storage structure. Any storage structure shall be of like design and building components as the primary structure. Storage structures shall be single story and not less than 250 square feet or more than 1,000 square feet.

Storage structures shall be located on the rear side of the primary Building (street address side being front).

- B. Each lot in the Plat shall be limited to two driveway accesses to the public street fronting the lot. Two or more lots shall not provide ingress/egress easements across lot lines for common use of more than one driveway.
- C. Each lot is require to maintain a minimum of 30% of the total square footage of the lot as green space planted with mowed grass or landscaped plantings of tress and shrubs.
- D. Fencing shall be limited to decorative fencing. Security fencing and chain link fencing are prohibited. No fencing is allowed on the street side of the Building.

6. ***Landscaping:***

- A. *Landscape Plan:* The landscaping upon any building site or lot shall be carried out in accordance with a detailed landscaping plan which has been reviewed and approved in writing by the City's Site Plan Review Committee. The landscape plan shall include, but not be limited to, plant location, common and botanical names of plant material, planting size, root condition, and quantity of all plant material. The plan shall show all ground cover and mulch areas, landscape and construction materials, and construction details.
- B. *Landscaping Methods:* Landscaping may include grading, earth berms, seeding, sodding, raised planters, architectural decorative walls or fencing, trees and shrubs, ground cover and other landscape materials including permanent sprinkler systems, fountains, storm run-off retention ponds, reflective ponds, and landscape lighting.
- C. *Plant Material:* Selected plant material should provide for a variety of shade trees, evergreen trees, and shrubs, ornamental trees and shrubs and ground covers. Plant material selection shall take into consideration the following:
 - 1. Disease and insect resistance;
 - 2. Hardiness to the area;
 - 3. The ability to provide seasonal interest;
 - 4. Future maintenance considerations;
 - 5. Ability of plant material to accomplish its intended purpose in each placement.
- D. *Time for Completion:* All landscaping shall be completed within ninety (90) days following occupancy, or as soon thereafter as weather will allow if such period occurs within winter months.

E. **Maintenance:** The owner shall be responsible for maintaining all landscaping as approved on the original plan for his site. Any variation or changes to the landscape plan must be reviewed and approved in writing by the Department of Planning. Landscaped areas, materials, fixtures, and improvements shall be maintained by the owner of the building site, or by such owner's long-term lessee(s) in good condition at all times. Such maintenance shall include watering, mowing, trimming, pruning, spraying, fertilizing, repairing, replacement of dead plantings, planting, transplanting, dusting, treating, and other common landscape maintenance activities necessary to keep the building site landscaping in a healthy state of growth and visually attractive in appearance.

All ground surfaces on each lot not covered by hard surface composed of driveways, parking lots, pedestrian walk ways, and building surface shall be landscaped, mowed, and maintained substantially free from the accumulation or growth of weeds or other wild vegetation.

If the owner or the owner's assigns fail to maintain the landscaping and site per the approved landscaping plan in this section, the City of Appleton or its Agent may seek an inspection warrant to enter the site and conduct such maintenance and to seek full reimbursement.

7. **Utility Controls:**

All utility lines shall be located underground where feasible except for high voltage lines. In the event high voltage lines are required, rear locations nearest and parallel with rear lot lines shall be encouraged.

8. **Parking, Loading:**

Off-street parking and loading areas shall be provided on each building site and shall be of sufficient size to accommodate all planned or anticipated parking and loading needs of all site occupants and visitors and comply with the City's Zoning Ordinance regarding parking standards.

1. All truck maneuvering must be confined within the boundaries of the property.
2. All parking, driveways, and loading areas shall be paved.
3. Parking shall be permitted within the minimum front yard setback area, however, it shall be located no closer than fifteen (15) feet to the public right-of-way line.

Truck loading and receiving areas shall occur in the rear of any buildings or structures on any lot except for the lots abutting U.S. 41 where it shall be located on the side. Truck loading and receiving areas shall be permitted on the side of such building if sufficient visual screening is installed to screen the dock area from the street.

Truck loading and receiving is normally not permitted in the front of such building unless dictated by the site conditions and only if fully screened from the street. In that event, the Community Development Committee shall review and approve the location of the loading dock. The Community Development Committee may assign this review of plans to the Economic Development Department.

9. ***Outdoor Storage:***

No outside storage of any kind shall be permitted.

10. ***Exterior Equipment:***

- A. Roof mounted equipment shall be so located and/or screened, and painted to minimize visibility from the street and adjacent owners.
- B. Exterior antennas, towers, poles, dishes, and solar collector panels are expressly prohibited excepting only satellite dish antenna not greater than 24 inches in diameter, flag poles, and light poles.

11. ***Signs:***

Identification signs shall be permitted to promote only the name and/or trademark of the owner or tenant of the parcel on which the sign is placed. The signs shall not advertise business services. Signs, lighting, etc., are to be indicated on the final site plan submitted to the Site Plan Review Committee for review.

- 1. Ground signs must be set back a minimum of 10 feet from the right-of-way line and must be of a low profile design subject to approval by the Committee.
- 2. Signs may not be of unusual size or shape when compared to the improvements situated on the site on which the sign is located.
- 3. Signs may not be installed above the roof line of a building.
- 4. Pole signs are prohibited.
- 5. Signs may not contain or utilize any flashing, blinking, intermittent or moving light as source of illumination.
- 6. No signs shall be located in or painted on any window.
- 7. Building signs must comply with the City Sign Code.

12. ***Maintenance Responsibilities:***

- A. Each owner shall keep its property, all contiguous street right-of-way to the edge of the pavement, and all drainage and easement areas in a well-maintained, safe, clean, and attractive condition at all times. Such maintenance includes, but is not limited to the following:
1. The removal of all litter, trash, refuse, and wastes;
 2. Compliance with the City's noxious weed control ordinance, including the regularly mowing of all grass areas to a height not over 4";
 3. The maintenance of exterior lighting, signs, and mechanical facilities;
 4. The keeping of all exterior building surfaces in a cleaned, well-maintained condition;
 5. The maintenance of all drainage ways including the removal of all debris, weeds, and silt.
- B. The owner of any undeveloped lands shall maintain said lands free of rubbish, noxious weeds, and mosquito breeding pond conditions.

13. ***Site Plan Review:***

Before commencing the construction or alterations of any buildings, additions, enclosures, fences, loading docks, parking facilities, or any other structures or permanent improvements on or to the real estate conveyed hereby, the owner shall first submit its building plans, specifications, site and landscape plans, elevations of all sides of the building, samples of materials proposed for all external surfaces including colors and textures, and an artist's rendering of the project or a scale model to the Site Plan Review Committee in accordance with Section 23-171 of the City Zoning Code. Renderings should show adjacent buildings, landscaping, screening, signs etc.

14. ***Repurchase Rights:***

Failure to Build: In the event the owner of land purchased from the City of Appleton does not commence construction of a building within one (1) year after the date of purchase, the City has the option to repurchase said property. The City shall pay the following repurchase price: the sum of the original purchase price and all special assessments which may have been paid by the buyer or levied against the property after the date of purchase minus the sum of any unpaid property taxes, pro-ration of the current years property taxes to date of closing, title insurance policy premium, real estate commission paid at time of original closing, and any liens and encumbrances on the property of a definite or ascertainable amount. Further, repurchase price shall be adjusted by the amount equal to the amount of an option fee for that

year had the property been under option between the City and the Buyer. Conveyance shall be by warranty deed.

Resale of Vacant Land: In the event the owner of land purchased from the City of Appleton elects to sell any portion thereof which is vacant, the property shall first be offered, in writing, to the City of Appleton. The City of Appleton shall have sixty (60) days from date of receipt of such offer to accept or reject repurchase of the property unless an extension of time may be mutually agreed upon and set forth in writing. The purchase price shall be computed as in the paragraph above (Failure to Build). Conveyance shall be by warranty deed. The seller shall furnish a title insurance policy at the seller's expense. In the event the City does not elect to repurchase the property, the owner may sell the land, but these Declarations of Covenants and Restrictions shall run with the land and be binding on the subsequent owner.

15. ***Subdivision of Lots:***

After a lot has been purchased, such lot shall not be further subdivided without the written consent of the Community Development Committee. No owner may sell, lease or rent less than all of the lot without the prior written consent of the Community Development Committee. The Community Development Committee may delegate this approval authority to the Economic Development Department. The foregoing prohibition shall not apply to occupancy leases of space in a building made in the ordinary course of business.

16. ***Waiver of Notice:***

All land sold before major assessable improvements are completed in the business park site shall be subject to the purchaser's waiving notice of assessments and hearings, and such waiver shall be part of the negotiations.

17. ***Variances:***

Notwithstanding anything contained herein to the contrary, the City of Appleton expressly reserves the right at any time to authorize in writing variances from the strict applications of these covenants and restrictions, or any one or more of them, where the circumstances, in its sole and exclusive judgement, justifies the granting of same.

18. ***Enforcement:***

The Community Development Committee has the responsibility to ensure compliance with the covenants and restrictions through any and all lawful means. In the event that the owner fails to perform in accordance with these covenants and restrictions, the Common Council, upon recommendation of the Community Development Committee, may take whatever corrective measures it deems appropriate and assess the cost thereof against the property in the same manner as a special charge. The Common Council shall give at least thirty (30) days notice to the vendee of any violation and the steps required to correct it prior to taking any action to cure such violation.

19. ***Invalidation:***

The invalidation of any one of the covenants or restrictions herein set forth or the failure to enforce any of said covenants and restrictions at the time of its violation shall in no way affect any of the other covenants or restrictions nor be deemed a waiver of the right to enforce the same thereafter.

20. ***Term:***

Each lot shall be conveyed subject to the covenants and restrictions set forth herein, all of which are to run with the land and shall be binding on all parties and all persons claiming them for a period of thirty (30) years from the date of this Declaration of Covenants and Restrictions is recorded, after which time said covenants and restrictions as are then in force and effect shall be automatically renewed for successive periods of ten (10) years each, unless an instrument terminating such covenants and restrictions is recorded with the Outagamie County Register of Deeds by the Common Council as evidenced by a resolution duly adopted by a majority of all members of the Common Council.