



# City of Appleton

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

## Meeting Agenda - Final Common Council

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Wednesday, June 1, 2016

7:00 PM

Council Chambers

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- A. CALL TO ORDER
- B. INVOCATION
- C. PLEDGE OF ALLEGIANCE TO THE FLAG
- D. ROLL CALL OF ALDERPERSONS
- E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS
- F. PUBLIC PARTICIPATION
- G. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[16-871](#) Common Council Meeting Minutes of May 18, 2016

Attachments: [CC Minutes 5-18-16.pdf](#)

- H. BUSINESS PRESENTED BY THE MAYOR

[16-820](#) Presentation of Chad Brady Public Art Day Proclamation

[16-869](#) Committee Reappointments:  
Paul McCann to the Board of Zoning Appeals  
Brian Looker to the Library Board

Attachments: [COMM REAPPOINTS BD OF ZONING APPEALS LIBRARY BD 060116.pdf](#)

[16-870](#) Fox Cities Transit Commission Appointments:  
Larry Carey Appointment  
Joel Gregozeski Reappointment

Attachments: [COMMITTEE APPT FOR INFORMATION TRANSIT COMM 060116.pdf](#)

- I. PUBLIC HEARINGS

[16-858](#) Public Hearing Notice Rezoning #3-16

Attachments: [Public Hearing RZ .pdf](#)

## J. SPECIAL RESOLUTIONS

## K. ESTABLISH ORDER OF THE DAY

## L. COMMITTEE REPORTS

**1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE**[16-830](#)

Request from Fox Valley Nursery, Inc. for a street occupancy permit to use the Prospect Avenue 1-foot terrace adjacent to Jones Park as a soils testing site for the Marigold Mile for a two year period.

**Attachments:** [Fox Valley Nursery.pdf](#)

**Legislative History**

5/24/16	Municipal Services Committee	recommended for approval
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[16-859](#)

Request from Darrle Hoernke, 1827 S Madison Street, for a variance to Municipal Code 19-91(f)(5) to extend his driveway eight (8) feet into the front yard.

**Attachments:** [1827 S Madison variance request.pdf](#)

**Legislative History**

5/24/16	Municipal Services Committee	recommended for approval
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**2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE**[16-790](#)

Pet Store/Kennel License Renewal application of HSA Corporation d/b/a Pet Supplies Plus, Chad Bush, Applicant, 702 W. Northland Ave., contingent upon approval from all departments.

**Legislative History**

5/25/16	Safety and Licensing Committee	recommended for approval
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[16-791](#)

Salvage Dealer's License Renewal application of Mach IV Motors LLC, Kara L. Tullberg, applicant 600 E. Hancock St. contingent upon approval from all departments.

**Legislative History**

5/25/16	Safety and Licensing Committee	recommended for approval
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- [16-794](#) Taxi Cab Company and Limousine Service renewal application of Apple Valley Taxi LLC, James D. Jacobs, 1831 N. Bennett Street, contingent upon approvals from all departments.

**Legislative History**

5/25/16      Safety and Licensing      recommended for approval  
Committee

- [16-803](#) "Class B" Beer/Liquor License Change of Premise Description of Axelrod LLC, d/b/a Ambassador, Jordan Hereford, Agent, 117 S. Appleton St. for the dates of July 17, September 23 & 24, 2016, contingent upon approval from all departments.

**Legislative History**

5/25/16      Safety and Licensing      recommended for approval  
Committee

- [16-805](#) Taxi Cab Company and Limousine Service renewal application of People Movers Inc./Appletn Yellow Taxi Co., Paul O. Davies, 705 W. Wisconsin Avenue, contingent upon approvals from all departments.

**Legislative History**

5/25/16      Safety and Licensing      recommended for approval  
Committee

- [16-826](#) Taxi Cab Company and Limousine Service renewal application of Dynasty Limousine Service LLC, Diand and John Wolters, 314 E. Wilson Avenue, contingent upon approvals from all departments.

**Legislative History**

5/25/16      Safety and Licensing      recommended for approval  
Committee

- [16-827](#) 2016-2017 Beer/Liquor License Renewal applications, contingent upon approval from all departments.

**Attachments:** [2016-2017 Beer Liquor License Renewals.docx](#)

**Legislative History**

5/25/16      Safety and Licensing      recommended for approval  
Committee

- [16-828](#) "Class B" Beer/Liquor License Change of Premise Description of Theadocia LLC d/b/a SPATS, Julie A. Neubert, Agent, 733 W. College Ave., for the dates of August 4 - 7, 2016, contingent upon approval from all departments.

**Legislative History**

5/25/16      Safety and Licensing      recommended for approval  
Committee

- [16-842](#) Salvage Dealer's License Renewal application of Mr. C's Motorcycles LLC, Eric E. Egelseer, Applicant, 724 S. Outagamie St., contingent upon approval from all departments.

**Legislative History**

5/25/16	Safety and Licensing Committee	recommended for approval
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- [16-853](#) Review of Changes to General Policy Statement on Beer/Liquor Licensing

**Attachments:** [LIQUOR LICENSE POLICY 2016 with edits.pdf](#)

**Legislative History**

5/25/16	Safety and Licensing Committee	recommended for approval
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- [16-854](#) Operator's Licenses

**Attachments:** [Operator's Licenses for 5-25-16 S & L.pdf](#)

**Legislative History**

5/25/16	Safety and Licensing Committee	recommended for approval
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- [16-855](#) Renewal Operator's Licenses

**Attachments:** [Renewal Operator's Licenses for 5-25-16 S & L.pdf](#)

**Legislative History**

5/25/16	Safety and Licensing Committee	recommended for approval
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**3. MINUTES OF THE CITY PLAN COMMISSION**

- [16-620](#) Request to approve Rezoning #3-16 to rezone the subject site located on E. Broadway Drive (Tax Id #31-1-9310-11 and #31-1-9310-12) from AG Agricultural District to R-1A Single-Family District as shown on the attached maps

**Attachments:** [StaffReport\\_Kurey\\_Property\\_Broadway\\_Dr\\_Rezoning.pdf](#)

**Legislative History**

4/25/16	City Plan Commission	recommended for approval
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*Proceeds to Council on May 18, 2016. Rescheduled for June 1, 2016*

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

**5. MINUTES OF THE FINANCE COMMITTEE**



[16-817](#)

Request to declare contractor in default and terminate contract for Municipal Services Building Trench Drain Reconstruction to Wood Sewer & Excavating, Inc in the amount of \$199,660.

**Attachments:** [2016 Municipal Services Trench Drain Contract Cancellation.pdf](#)

**Legislative History**

5/24/16 Finance Committee recommended for approval

[16-818](#)

Request to approve the following 2016 Budget adjustment:

**Facilities Capital Projects Fund**

Alicia Park Hill Slope Project	+\$32,000
Park Pavilion Roofs Project	- \$32,000

to reallocate positive budget variance from the Park Pavilion Roofs project to the Alicia Park Hill Slope Project.

**Attachments:** [2016 Roof Replacement-Alica Hillside Budget Adjustment.pdf](#)

**Legislative History**

5/24/16 Finance Committee recommended for approval

[16-857](#)

Request to award Unit E-16 miscellaneous street and excavation repairs to Al Dix Concrete Inc. in an amount not to exceed \$497,000.

**Attachments:** [Award of Contract E-16.pdf](#)

**Legislative History**

5/24/16 Finance Committee recommended for approval

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

[16-850](#)

Request to accept the basic terms of the Letter of Intent from Esler Commercial dated May 13, 2016 and direct staff to continue to negotiate terms toward offer to purchase for approximately 7.3 acres of the southern half of Lot 20 of Southpoint Commerce Park

**Attachments:** [Memo re Letter of Intent 5-20-16 docx.pdf](#)

[Letter of Intent - Southpoint Commerce 5-18-16.pdf](#)

[Southpoint\\_Subject7 3Acres.pdf](#)

**Legislative History**

5/25/16 Community & Economic Development Committee recommended for approval

## 7. MINUTES OF THE UTILITIES COMMITTEE

[16-822](#) Approve May 2016 Revisions to Stormwater Utility Credit Policy.

**Attachments:** [Memo Credit Policy Approval 05-24-2016.pdf](#)  
[2016 Revised Stormwater Utility Credit Policy Combined.pdf](#)

**Legislative History**

5/24/16 Utilities Committee recommended for approval

[16-823](#) Revision to Chapter 24 of the Municipal Code for Erosion and Sediment Control.

**Attachments:** [Erosion Control Ord - Redlined - 05-17-2016.pdf](#)

**Legislative History**

5/24/16 Utilities Committee recommended for approval

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

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

[16-834](#) Authorization to Award a Contract to Lamers Bus Lines for the Provision of Downtown Trolley Service

**Attachments:** [Award 2016 Trolley Contract.pdf](#)

**Legislative History**

5/25/16 Fox Cities Transit Commission recommended for approval

[16-835](#) Octoberfest Fares

**Attachments:** [Octoberfest Fares.pdf](#)

**Legislative History**

5/25/16 Fox Cities Transit Commission recommended for approval

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

M. CONSOLIDATED ACTION ITEMS

N. ITEMS HELD

O. ORDINANCES

[16-856](#) Ordinance 46-16

**Attachments:** [Ordinance going to Council 06-01-16.pdf](#)

- P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION
- Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION
- R. OTHER COUNCIL BUSINESS
- S. CLOSED SESSION
- T. ADJOURN

Kami Lynch, City Clerk

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



# City of Appleton

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## Meeting Minutes - Final Common Council

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Wednesday, May 18, 2016

7:00 PM

Council Chambers

---

A. CALL TO ORDER

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

B. INVOCATION

*The Invocation was given by Alderperson Martin.*

C. PLEDGE OF ALLEGIANCE TO THE FLAG

D. ROLL CALL OF ALDERPERSONS

**Present:** 15 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt and Mayor Timothy Hanna

**Excused:** 1 - Alderperson Margaret Mann

E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

*City Clerk Lynch, City Attorney Walsh, Deputy City Attorney Behrens, Director of Community and Economic Development Harkness, Director of Finance Saucerman, Deputy Fire Chief Reece, Health Officer Eggebrecht, Director of Human Resources Behnke, Director of Information Technology Fox, Director of Parks, Recreation and Facilities Gazza, Police Chief Thomas, Director of Public Works Vandehey, Director of Utilities Shaw, Valley Transit Asst. General Manager Sandmeier, Library Director Rortvedt*

F. PUBLIC PARTICIPATION

*The following individuals spoke regarding Item 16-706 Special Use Permit #2-16 for a proposed cell tower:*

*Ryan Vissers, 2713 Kesting Court  
Emory Laffin, 2709 Kesting Court  
Lynndale Ihm, 2810 N Park Drive Lane  
Rod Roovers, 2708 Kesting Court  
Bill Fellows, 1808 E Longview Drive  
Guy Stewart, 3703 North Point*

## G. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[16-812](#) Common Council Meeting Minutes of May 4, 2016

**Attachments:** [CC Minutes 5-4-16.pdf](#)

**Alderson Konetzke moved, seconded by Alderson Dannecker, that the Minutes be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Alderson Kathleen Plank, Alderson William Siebers, Alderson Curt Konetzke, Alderson Ed Baranowski, Alderson Patti Coenen, Alderson Kyle Lobner, Alderson Jeffrey Jirschele, Alderson Matt Reed, Alderson Vered Meltzer, Alderson Joe Martin, Alderson Greg Dannecker, Alderson Christine Williams, Alderson Cathy Spears and Alderson Chris Croatt

**Excused:** 1 - Alderson Margret Mann

**Abstained:** 1 - Mayor Timothy Hanna

## H. BUSINESS PRESENTED BY THE MAYOR

[16-807](#) Presentation of National Public Works Week Proclamation

[16-808](#) Presentation of Hmong American Day Proclamation

[16-809](#) Presentation of Appleton Police Department Officer of the Year Award to Sergeant Neal Rabas

[16-810](#) Presentation of Appleton Police Department Civilian Medals of Gallantry to William Beyer, Julie Dudek, and Bruce Dudek

[16-811](#) Presentation of A Week to Celebrate Policing Proclamation

## I. PUBLIC HEARINGS

[16-813](#) Public Hearing: Resolution 2-P-16 Concrete Pavement, Sidewalk Construction and Driveway Aprons

**Attachments:** [2-P-16 Public Hearing Notice.pdf](#)

*The Public Hearing was held. No one spoke during the Public Hearing.*

## J. SPECIAL RESOLUTIONS

[16-814](#)

Resolution 2-P-16

**Attachments:**     [2-P-16 Concrete Paving Final Resolution.pdf](#)

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

**Aye:** 14 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Jeffrey Jirschele, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears and Aldersperson Chris Croatt

**Excused:** 1 - Aldersperson Margret Mann

**Abstained:** 1 - Mayor Timothy Hanna

## K. ESTABLISH ORDER OF THE DAY

[16-706](#)

Request to approve Special Use Permit #2-16 for an 85-foot monopole wireless telecommunication tower with associated antennas and ground equipment located in the 2700 block of N. Kesting Court (Tax Id 31-1-4025-00), as shown on the attached maps and per attached plan of operation, subject to the conditions in the attached staff report

**Attachments:**     [StaffReport\\_KestingCtTower\\_SpecialUsePermit#2-16.pdf](#)  
                              [Kesting Ct Cell Tower Petition.pdf](#)  
                              [Photos submitted to Plan Commission on 5-9-16 re Kesting Ct Tower.pdf](#)

*Aldersperson Croatt Referred this Item back to the City Plan Commission. The Item will be on the June 6th City Plan Commission Agenda.*

[16-760](#)**\*\*\*CRITICAL TIMING\*\*\***

Approval to bury majority of overhead power lines on S. Oneida Street from the south end of the Skyline Bridge to 300 feet south of Seymour Street for an additional \$750,000 added to city share of S. Oneida Street Project contingent upon St. Elizabeth Hospital reimbursing the City for the costs south of Fremont Street **in an amount not to exceed \$325,000.**

**Attachments:**     [05-10-2016 MSC Presentation legal size paper.pdf](#)  
[05-10-16 MSC Overhead Lines Remain.pdf](#)  
[05-10-16 MSC Overhead Lines Removed.pdf](#)

*Motion by Alderperson Coenen, seconded by Konetzke to Call the Question. Motion carried 13/1. A vote on the original Motion as amended to include the commitment date of May 20th was taken.*

**Motion by Martin, seconded by Konetzke to approve the Report Action Item. The Motion was amended (below) to add that the commitment for reimbursement be received by May 20th. A Roll Call vote was taken and the item was approved as amended by the following vote:**

**Aye:** 12 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Cathy Spears and Alderperson Chris Croatt

**Nay:** 2 - Alderperson Greg Dannecker and Alderperson Christine Williams

**Excused:** 1 - Alderperson Margret Mann

**Abstained:** 1 - Mayor Timothy Hanna

**Alderperson Konetzke moved, seconded by Alderperson Coenen, that the original Motion be amended to remove the contingency of the reimbursement from St. Elizabeth Hospital. Roll Call. Motion failed by the following vote:**

**Aye:** 7 - Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Matt Reed, Alderperson Joe Martin, Alderperson Cathy Spears and Alderperson Chris Croatt

**Nay:** 7 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Vered Meltzer, Alderperson Greg Dannecker and Alderperson Christine Williams

**Excused:** 1 - Alderperson Margret Mann

**Abstained:** 1 - Mayor Timothy Hanna

**Alderperson Spears moved, seconded by Alderperson Croatt, that the original Motion be amended to add to the contingency, that St. Elizabeth Hospital commits to the reimbursement by May 20th. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears and Alderperson Chris Croatt

**Excused:** 1 - Alderperson Margret Mann

**Abstained:** 1 - Mayor Timothy Hanna

[16-776](#)

Request to approve a variance to the Declaration of Covenants and Restrictions, Item 3.C.6 for Plat 4 in the Northeast Industrial Park, allowing for the currently installed "plank embossed profile" exterior material to remain at 3100 E. Capitol Drive

**Attachments:**     [Memo to CEDC on Variance to Covenants for 3100 E Capitol Dr.pdf](#)  
[City Letter Request for Variance.pdf](#)  
[Keller letter regarding 3100 E Capitol Drive.pdf](#)  
[Photo 1 of 3100 E. Capitol Drive.pdf](#)  
[Photo 2 of 3100 E. Capitol Drive.pdf](#)  
[NEIP Covenants and Restrictions.pdf](#)

**Alderperson Baranowski moved, seconded by Alderperson Coenen, that the Report Action Item be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears and Alderperson Chris Croatt

**Excused:** 1 - Alderperson Margret Mann

**Abstained:** 1 - Mayor Timothy Hanna

## L. COMMITTEE REPORTS

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

**Alderperson Konetzke moved, Alderperson Croatt seconded, to approve the balance of the agenda. The motion carried by the following vote:**

**Aye:** 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears and Alderperson Chris Croatt

**Excused:** 1 - Alderperson Margret Mann



**Abstained:** 1 - Mayor Timothy Hanna

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

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

[16-667](#) Change of Agent - "Class B" Beer/Liquor License of Milko, Inc., d/b/a The Bar on the Avenue, Samuel D. Kilgas, Agent, 427 W. College Ave., contingent upon approval from all departments.

**This Report Action Item was approved.**

[16-668](#) Change of Agent - Class "A" Beer/Liquor License of Walgreen Co., d/b/a Walgreens #02921, Stacey A. West, Agent, 1901 S. Oneida St., contingent upon approval from all departments.

**This Report Action Item was approved.**

[16-669](#) Change of Agent - Class "A" Beer/Liquor License of Albertfest Inc., d/b/a Festival Foods, John R. Borski, Agent, 1200 W. Northland Ave., contingent upon approval from all departments.

**This Report Action Item was approved.**

[16-685](#) Salvage Dealer's License Renewal application of Bee J Enterprise Inc., Connie J. Hartjes, Applicant, 4845 Greenville Dr., contingent upon approval from all departments.

**This Report Action Item was approved.**

[16-686](#) Request authorization to purchase structural firefighting personal protective equipment.

**Attachments:** [Purchase Structural FF PPE.pdf](#)

**This Report Action Item was approved.**

[16-701](#) Taxi Cab Company and Limousine Service renewal application of A-Town Taxi, Jeremy Swiertz, P.O. Box 42, Menasha, contingent upon approvals from all departments.

**This Report Action Item was approved.**

[16-755](#) Mobile Home Park License renewal application of Moore Enterprises, Fox Valley Estates, Scott Moore, 106 Primrose Lane, contingent upon approvals from all departments.

**This Report Action Item was approved.**

[16-778](#) Taxi Cab Company and Limousine Service renewal application of L&S Classic Limousine LLC, Leonard Trams, W6177 Plymouth Street, contingent upon approvals from all departments.

**This Report Action Item was approved.**

[16-784](#) Renewal Operator Licenses

**Attachments:** [Renewal Operator's Licenses for 5-11-16 S & L.pdf](#)

**This Report Action Item was approved.**

[16-793](#) Change of Premise Description of Vers Venture LLC d/b/a Mr. Brews Taphouse, Tammy L. Verhagen, Agent, 201 S. Riverheath Way, Suite 1100 for the dates of May 31, June 18, July 31 & August 6, 2016, contingent upon approval from all departments.

**This Report Action Item was approved.**

### **3. MINUTES OF THE CITY PLAN COMMISSION**

[16-704](#) Request to approve Special Use Permit #1-16 for a microbrewery and bar with outdoor alcohol sales and service at 115 S. State Street (Tax Id #31-3-0986-00 and #31-3-0987-00), as shown on the attached maps and per attached plan of operation, to run with the land subject to the conditions in the attached staff report

**Attachments:** [StaffReport\\_McFleshmans\\_SUP\\_For05-09-16.pdf](#)

**This Report Action Item was approved.**

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

### **5. MINUTES OF THE FINANCE COMMITTEE**

[16-800](#) Request to award Unit J-16 Mini Storm Sewer Construction to Vanco Construction, Inc. in an amount not to exceed \$200,000.

Attachments: [Award of Contract J-16.pdf](#)

This Report Action Item was approved.

[16-801](#) Request to award the Fire Stations #3 and #5 2016 Exterior Lighting Replacement contract to K&B Electric, LLC in the amount of \$38,110 with a contingency of 10% for a project not to exceed \$41,921.

Attachments: [2016 Fire Station 35 Lighting.pdf](#)

This Report Action Item was approved.

[16-804](#) Request to approve the following 2016 Budget adjustment:

**General Fund - City Clerk's Office**

Reserve Class B License Grant Payment	+\$10,000
Fund Balance	- \$10,000

to record Class B Liquor License Grant payment to El Patron restaurant approved at April 27, 2016 Safety and Licensing Committee (2/3 vote required).

Attachments: [El Patron License Rebate.pdf](#)

This Report Action Item was approved.

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

[16-757](#) Request to apply to Wisconsin Economic Development Corporation (WEDC) for a Site Assessment Grant (SAG) for \$150,000 to investigate contamination and understand and create a mitigation plan for 618 S. Olde Oneida Street (Metso property)

Attachments: [Memo to CEDC on Site Assessment Grant from WEDC.pdf](#)  
[Grant Tracking Form Signed WEDC Site Assessment Grant.pdf](#)

This Report Action Item was approved.

## 7. MINUTES OF THE UTILITIES COMMITTEE

[16-723](#)

Award of Cotter Street Stormwater Management Alternatives Evaluation, in an amount not to exceed \$20,687 and authorization to single source the future design contract and construction related services contract, with RA Smith National, Inc.

**Attachments:** [Cotter Analysis award Memo Util Cmte final.pdf](#)

This Report Action Item was approved.

## **8. MINUTES OF THE HUMAN RESOURCES COMMITTEE**

[16-714](#)

Request to award contract for Computer Assisted Mass Appraisal (CAMA) implementation project to Patriot Properties of Marblehead, MA not to exceed \$308,341, this is a base of \$280,310 with a 10% contingency for potential programming needs.

**Attachments:** [CAMA Software HR-IT Committee Memo.pdf](#)

This Report Action Item was approved.

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

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

M. CONSOLIDATED ACTION ITEMS

N. ITEMS HELD

O. ORDINANCES

P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION

Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION

R. OTHER COUNCIL BUSINESS

S. ADJOURN

Aldersperson Baranowski moved, seconded by Aldersperson Coenen, that the meeting be adjourned at 8:52 p.m. Roll Call. Motion carried by the following vote:

**Aye:** 15 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt and Mayor Timothy Hanna

**Excused:** 1 - Alderperson Margret Mann

Kami Lynch, City Clerk



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

**OFFICE OF THE MAYOR**

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

**TO:** Members of the Common Council

**FROM:** Mayor Timothy Hanna

**DATE:** May 27, 2016

**RE:** Committee Reappointments

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It is with pleasure that I present the following reappointments for your confirmation at the June 1 Common Council meeting. Per Resolution #8-R-14, attendance has been included.

**BOARD OF ZONING APPEALS**

Paul McCann	3-year term	82% attendance
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**LIBRARY BOARD**

Brian Looker	3-year term	94% attendance
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**OFFICE OF THE MAYOR**  
Timothy M. Hanna  
100 North Appleton Street  
Appleton, Wisconsin 54911-4799  
(920) 832-6400 FAX (920) 832-5962  
e-mail: mayor@appleton.org

**TO:** Members of the Common Council  
**FROM:** Mayor Timothy Hanna   
**DATE:** May 27, 2016  
**RE:** Committee Appointment/Reappointment

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It is with pleasure that I present the following appointment/reappointment for your information at the June 1 Common Council meeting:

**FOX CITIES TRANSIT COMMISSION**

Larry Carey	3-year term (Town of Grand Chute Representative – fulfilling remainder of term vacated by Bruce Sherman to expire April 2017)
Joel Gregozeski	3-year term (Town of Buchanan Representative)

**NOTICE OF PUBLIC HEARING**

**#3-16**

**RE: Proposed Zone Change**

A public hearing will be held in the Council Chambers, City Hall, Appleton, Wisconsin, on June 1, 2016, at 7:00 P.M., or as soon thereafter as can be heard, to consider the following proposed zone change:

**Rezoning #3-16** request has been initiated by Martenson & Eisele, Inc., agent on behalf of the owner, Kenneth Kurey and Kurey Brothers Partnership, pursuant in the matter of amending Chapter Twenty-three (Zoning Ordinance) of the Municipal Code of the City of Appleton for the following described real estate. The owner requests to rezone the property from AG Agricultural District to R-1A Single-Family District: The owner proposes to rezone the property to allow for the creation of a single-family lot in order to construct a house.

**LEGAL DESCRIPTION:**

Part of the E ½ of the SE ¼ of the SW ¼ of Section 36, T22N, R17E, City of Appleton, Outagamie County, Wisconsin (Tax Id. #31-1-9310-11 and #31-1-9310-12).

May 11, 2016

**KAMI LYNCH**  
City Clerk

RUN: May 14, 2016  
May 17, 2016





TO: City Of Appleton Dept. of Public Works

Attn: Paula VanDehay ( For presentation at 5/24/2016 DPW Meeting)

FROM: Joe Sturm, Fox Valley Nursery, Inc.

RE: The Marigold Mile planting flowers in W. Prospect Ave. terrace near S. Oneida St.

Dear Paula,

On behalf of The Marigold Mile we are requesting permission to begin planting marigold flowers this spring/summer of 2016 in the terrace area along the N. side of Prospect Avenue from the stop light at S. Oneida and continuing to the West for approx. 315 ft. to the E. property line of the residence located at 230 W. Prospect Ave.

Please see the attached Aerial Map View copied from Outagamie Co. Land Information website.

The reasoning of utilizing this initial area being planted is multi purposed.

First, we have hopes to eventually include the Prospect Avenue corridor as part of the Marigold Mile planting project when the S. Oneida St. Reconstruction project takes place and thereafter. This would be a nice introduction to the Homeowners, Pedestrians and passing traffic of things to come.

Second, The Marigold Mile, (represented through Alderman Joe Martin) has pledged to take part in back-filling the soil into the new terraces along the S. Oneida St. reconstruction project as needed for future flower plantings. This soil will be made up of an engineered recipe containing "bio-solid based compost" being donated & now stored at the Out. Co. Landfill. The exact recipe needs to be determined by way of test-planting with different mixes & this Prospect Ave. terrace would suffice well for the experiment. The existing Prospect Ave. soil would be dug out & recycled by Marigold Mile Volunteer's & Fox Valley Nursery under my Direction. A two year study will ensue & the best results will be reflected in the back-fill mix on the new S. Oneida St. terraces.

Fox Valley Nursery Inc. will be responsible to obtain all necessary Street Occupancy Permits, call Diggers Hotline in advance, provide proper signage & safety equipment as well as coordinate with City Officials to avoid peak traffic times & conflict with other projects or programs. No special physical or financial help is being requested from the City Of Appleton & we assure a clean project with a guarantee of restoration to original condition if necessary. Certificates of Liability Insurance will also be provided upon request.

It is our hope that your Department will support us in this endeavor to further beatify our community with the expanded planting of "Appleton's Official Flower" *The Marigold*, as proclaimed by Mayor Hanna last February.

Thank You For Your Consideration & Valuable Time In This Matter,

Joe Sturm, President/Co-Owner of Fox Valley Nursery, Inc.

Treasurer/Community Relations Chair for The Marigold Mile

*Complete Landscape Service & Nursery*



TO: Brian Kreski, City Of Appleton Environmental Program Coordinator

FROM: Joe Sturm, Fox Valley Nursery Inc. & The Marigold Mile

RE: Bio-Solid Compost Request for use in engineered soil recipe (Experimental Trial in W. Prospect Terrace).

Hello Brian,

As per our conversation and attached documentation, we are requesting your assistance in developing an acceptable engineered soil recipe for the eventual use in the future terraces of the proposed/planned S. Oneida St. Reconstruction Project. Experimental terrace is approx.. 315 lin. Ft. by 12 inches wide & deep equating to approx. 12 cubic yards of finished material. The future S. Oneida St. project measures 4185 lin. Ft. calling for 155 cu. yds. after mixing. The proposed recipes will be utilized & studied for two or more years along W. Prospect Ave. & other areas if the City approves the use of these areas at the next DPW meeting on 5/24. Your input at this meeting would be valued & your support appreciated. These trial results may prove very instrumental in future use & sales of the Bio-Compost to Landscape Contractors such as Fox Valley Nursery.

#1) Light Mix, Straight Bio-Compost, ( just as it comes off the pile, no additives but tilled up for planting.

#2) Basic Mix, 50% Bio-Compost, 50% Topsoil.

#3) Manure Mix, 50% Bio-Compost, 50% Petersons Manure Compost.

#4) Engineered Mix, 70% Bio-Compost, 10% Petersons Manure Compost, 10% Topsoil, 5% Sand, 5% 3-B Mix.

#5) Heavy Mix, 25% Bio-Compost, 25% Petersons Manure Compost, 25% Topsoil, 25% Sand.

Other?

Soils to be pre blended, shredded, treated equally by Tom VanHandel Co. & shall be installed & planted/watered simultaneously with no liquid fertilizer the first year. Growing conditions to be monitored along with moisture suspension in drought & wet times & recorded with comments bi-weekly .

Thank You,

Joe

Joe Sturm, President/Co-Owner FVN Inc.

Treasurer/Community Relations Chair of The Marigold Mile







To Paula Vandehay

5-20-2016

I would like to request a variance to Section  
19-91(F)(5) of the City Code to extend ~~My~~ Driveway Eight (8)  
Feet to the Front Yard.

A handwritten signature in dark ink, appearing to read 'Darrel Hoernke', with a long horizontal stroke extending to the right.

Darrel Hoernke  
1877 S. Madison St.



May 20, 2016

Search Results: Taxkey

Override 1

City Parcels



Zoning



Easements



ActionLine

ActionPoly



NO



YES

1:357

0 0.003 0.006 0.012 mi

0 0.00475 0.0095 0.019 km





11/10/2014

**OFFICIAL NOTICE**

Published pursuant to Section 125.04(3)(g) of the Wisconsin Statutes.

NOTICE is hereby given that the following persons have given application to the Common Council of the City of Appleton for a License to Sell Intoxicating Liquors and/or Fermented Malt Beverages in the City of Appleton, the granting of which is now pending.

**2016-2017 RENEWALS****CLASS "A" FERMENTED MALT BEVERAGE/LIQUOR (CIDER ONLY) LICENSE**

<b><u>NAME</u></b>	<b><u>TRADE NAME</u></b>	<b><u>ADDRESS</u></b>
Ballard GCS LLC Daniel J. Pamperin, Agent	Ballard Grand Central	1910 East Capitol Drive
DK Petroleum Inc. Davinder Singh, Agent	DK Petroleum	2619 North Richmond Street
Downtown Gas Inc Harmanjit Singh, Agent	Downtown Gas	911 West College Avenue
FKG Oil Company Lori A. Endries, Agent	Appleton MotoMart	3400 East Calumet Street
FKG Oil Company Teresa M. Hawley, Agent	Badger MotoMart	1850 West Wisconsin Avenue
FKG Oil Company Teresa M. Hawley, Agent	MotoMart	2838 North Ballard Road
FKG Oil Company Teresa M. Hawley, Agent	Kensington MotoMart	320 South Kensington Drive
Jaliyan Gas, LLC Nilesh M. Patel, Agent	Wisconsin Avenue Pantry	111 West Wisconsin Avenue
Kwik Trip, Inc. Toua Lee, Agent	Kwik Trip #678	3232 South Oneida Street
Kwik Trip, Inc. Isaac A. Peterson, Agent	Kwik Trip #639	2175 South Memorial Drive

Kwik Trip, Inc. Eric R. Forbes, Agent	Kwik Trip #685	4085 East Calumet Street
Kwik Trip, Inc. Kathleen A. Bayer, Agent	Tobacco Outlet Plus #556	1342 West Prospect Avenue
Kwik Trip, Inc. Thomas F. Emme, Agent	Kwik Trip #200	2120 East Edgewood Drive
Kwik Trip Inc. Bryan D. Hartjes, Agent	Kwik Trip 181	730 East Wisconsin Avenue
Kwik Trip Inc. Jessica A. Hartjes, Agent	Kwik Trip 182	306 North Richmond Street
Northern Gas, LLC Roshankumar K. Patel, Agent	You Pump	1306 South Oneida Street
Sai Krupa, LLC. Nilesh Patel, Agent	Richmond Street Citgo	1601 North Richmond Street
SG Petroleums LLC Suyash Goel, Agent	SG Petroleums	2811 East Newberry Street
Shopko Stores Operating Co LLC Mark H. Grasmick, Agent	Shopko #15	1000 West Northland Avenue
Swami, LLC. Kanu B. Patel, Agent	Northland Citgo	800 East Northland Avenue
Van Zeeland Oil Co Inc Todd G. Van Zeeland, Agent	Valley Mobil	2661 South Oneida Street
Van Zeeland Oil Co Inc Todd G. Van Zeeland, Agent	Apple Creek Mobil	2000 East Edgewood Drive
Van Zeeland Oil Co Inc Todd G. Van Zeeland, Agent	Northgate Mobil	105 West Northland Avenue
Van Zeeland Oil Co Inc Todd G. Van Zeeland, Agent	Richmond Street Mobil	3401 North Richmond Street



**“CLASS A” FERMENTED MALT BEVERAGE/LIQUOR LICENSE**

<b><u>NAME</u></b>	<b><u>TRADE NAME</u></b>	<b><u>ADDRESS</u></b>
Albertfest, Inc. John R. Borski, Agent	Festival Foods	1200 W Northland Avenue
Aldi Inc. (Wisconsin) Dennis S. Stachowiak, Agent	Aldi #68	116 North Linwood Avenue
Aldi Inc. (Wisconsin) Benjamin L. Diers, Agent	Aldi #69	2310 South Kensington Drive
Dolgencorp LLC Debra A. Jopek, Agent	Dollar General	1320 West Wisconsin Avenue, Unit A
Flanagan’s Stop & Shop, Inc. Patrick J. Flanagan, Agent	Flanagan’s Stop & Shop	522 West College Avenue
Jerry’s Tobacco & Book Shop, Inc. James J. Ruekert, Agent	Jerry’s Pages & Pipes	322 West College Avenue
Kalumet Pantry Inc. Deapak Dogra, Agent	Calumet Pantry	319 East Calumet Street
Olive Cellar LLC Gordon J. Cole, Agent	The Olive Cellar	277 West Northland Avenue
Schneider Markets, Inc. Daniel J. Schneider, Agent	Piggly Wiggly #323	520 East Northland Avenue
Shopko Stores Operating Co LLC Jeffery P. Henry, Agent	Shopko Express #505	2101 East Evergreen Drive
Target Corporation Alexandria L. Blahnik, Agent	Target Store T-1248	1800 South Kensington Drive
The Free Market, Inc. Lucinda M. Weinfurter, Agent	The Free Market	734 West Wisconsin Avenue
Ultimate Mart LLC Michael (Charlie) L. Kilburg, Agent	Copps Food Center #8187	511 West Calumet Street
Ultimate Mart LLC Shane E. Fischer, Agent	Copps Food Center #8123	2700 North Ballard Road

Walgreen Co. Joshua M. Buck, Agent	Walgreens #05102	700 West College Avenue
Walgreen Co. James B. Douglas, Agent	Walgreens #12019	2803 North Meade Street
Walgreen Co. Melissa M. Drawenex, Agent	Walgreens #12693	729 West Northland Avenue
Walgreen Co. Stacey A. West, Agent	Walgreens #02921	1901 South Oneida Street
Walgreen Co. Ross J. Mueller, Agent	Walgreens #07323	3330 East Calumet Street
Wal-Mart Stores East LP Glenn Martin, Agent	Wal-Mart #2958	3701 East Calumet Street
Wisconsin CVS Pharmacy LLC Robert Strazishar, Agent	CVS Pharmacy #8525	700 West Wisconsin Avenue

#### **CLASS "B" FERMENTED MALT BEVERAGE LICENSE**

<b><u>NAME</u></b>	<b><u>TRADE NAME</u></b>	<b><u>ADDRESS</u></b>
Guang Hai Chen	Min Du Buffet	1000 West Wisconsin Avenue
Mais Deli Fong Lee, Agent	Mai's Deli	104 South Memorial Drive
Nusara Yang	Jai Sung Mah Pool Club	122 West Wisconsin Avenue
Panther Baseball Club Inc. Korey Krueger, Agent	Panther Baseball Club	1620 East Witzke Boulevard
PH Hospitality Group LLC Gordon K. Freimark, Agent	Pizza Hut	1924 South Oneida Street
Pho House LLC Txongpaul Xiong, Agent	Pho House	621D West Northland Avenue
The Cozzy Corner LLC Natasha M. Banks, Agent	Cozzy Corner	111 North Walnut Street
VanderLinden Business Ventures LLC Paul R. VanderLinden, Agent	Muncheez Pizzeria	600 West College Avenue

Youa Bee Xiong

Pheng Houa Daily Foods

1216 North Division Street

**CLASS “B” FERMENTED MALT BEVERAGE LICENSE  
AND CLASS “C” WINE LICENSE**

**NAME**

**TRADE NAME**

**ADDRESS**

Cinisi, LLC  
Giuseppa Sollena, Agent

Luigi’s Pizza

1835 East Edgewood Drive

Green Gecko Inc.  
Robert C. Wall, Agent

Green Gecko Grocer & Deli

400 North Richmond Street

Home Run Pizza LLC  
Patricia L. Reinke, Agent

Home Run Pizza

1216 West Wisconsin Avenue

Java Warung, LLC  
David W. Pickett, Agent

Java Warung

1915 North Richmond Street

John E. Risberg

Fuji Sushi Buffet

1003B W. Northland Avenue

Lasubo Inc  
Lawrence R. Bogenschutz, Agent

Atlas Waterfront Café

425 West Water Street, #100

Lou’s Brew Café & Lounge Inc.  
Laura A. Loukidis, Agent

Lou’s Brew Café & Lounge

233 East College Avenue

MK2 Investments LLC  
Mari Pauline Kessenich, Agent

Pinot’s Palette

226 East College Avenue

Sou Chomsisengphet

Basil Café

1513 North Richmond Street

Sunflower Spa LLC  
Lacy A. Hardy, Agent

Sunflower Spa

1024 South Olde Oneida Street

Vers Venture LLC  
Tammy L. Verhagen, Agent

Mr Brews Taphouse

201 South Riverheath Way  
Suite 1100

**“CLASS B” FERMENTED MALT BEVERAGE/LIQUOR LICENSE**

<b><u>NAME</u></b>	<b><u>TRADE NAME</u></b>	<b><u>ADDRESS</u></b>
Aaron Investments LLC Erik J. Anderson, Agent	Stuc's Pizza	110 North Douglas Street
Antojitos Mexicanos LLC Fernando Almanza, Agent	Antojitos Mexicanos	204 East College Avenue
Apollon II LLC Craig A. Persha, Agent	Apollon	207 North Appleton Street
Apple Hospitality Group LLC Jennifer L. Williams, Agent	Applebee's Neighborhood Grill & Bar #238	3040 East College Avenue
Appleton Elks Lodge #337 James B. Marks, Agent	Appleton Elks Lodge	1103 West College Ave
Appleton Holdings, LLC Jay J. Schumerth, Agent	Radisson Paper Valley Hotel Banquet Services	333 West College Avenue
Appleton Holdings, LLC Jay J. Schumerth, Agent	Radisson Paper Valley Hotel Clubhouse	333 West College Avenue
Appleton Holdings, LLC Jay J. Schumerth, Agent	Radisson Paper Valley Hotel Intermezzo	333 West College Avenue
Appleton Holdings, LLC Jay J. Schumerth, Agent	Radisson Paper Valley Hotel Lombardi's Steakhouse, The Orchard Restaurant & Room Service	333 West College Avenue
Appleton Souvenir & Cigar Inc Robert J. Zima, Agent	Appleton Souvenir & Cigar Company	415 West College Avenue
Appleton Yacht Club Andrew T. Potter, Agent	Appleton Yacht Club	1200 South Lutz Drive
Asian Food of Appleton Inc Chuankeng Chen, Agent	Asian Thai	201E West Northland Avenue
Axelrod LLC Jordan L. Hereford, Agent	Ambassador	117 South Appleton Street

Bad Badger, Inc. Michael J. Baker, Agent	Bad Badger Sports Bar	215 West College Avenue
Badger Boys 2 LLC Tim G. Bruecker, Agent	Badger Sports Park	3600 East Evergreen Drive
Behnke Enterprises, Inc. Mark E. Behnke, Agent	Bazils Pub	109 West College Avenue
Behnke Enterprises, Inc. Mark E. Behnke, Agent	No Idea Bar	109 West College Avenue
Camelot of Appleton LLC Brian M. Striegel, Agent	Camelot	1700 East Wisconsin Avenue
Cena Restaurant LLC Joshua W. Nave, Agent	Cena Restaurant	125 East College Avenue
Cleo's Brown Beam LLC Dean T. Sosnoski, Agent	Cleo's	203 West College Avenue
DDCT, Inc. Jay J. Plamann, Agent	Jim's Place	223 East College Avenue
Debra L Terry	Carter's Caboose	1428 West Second Street
Diamond Star LLC George M. Schroeder, Agent	C.U. Saloon	409 West College Avenue
Dieters Place LLC Jonathon Kuehn, Agent	Dieter's	830 East Northland Avenue
Dongpo Restaurant in Appleton, Inc. Jenny Kong Yu, Agent	DongPo Restaurant	719 West College Avenue
Dr Jekylls LLC Ronald G. Teske, Agent	Dr. Jekyll's	314 East College Avenue
Eager Beaver LLC Christina M. Coon, Agent	Eager Beaver Bar & Grill	1400 West Second Street
El Azteca Restaurants, Inc. Fe Montalvo, Agent	El Azteca Restaurant	201D West Northland Avenue
Elephant and Castle, Inc. Angela K. Franz, Agent	Union Jack	812 South Olde Oneida Street

Fat Sammy's Inc Angela C. Gaines, Agent	Fat Sammy's	2500 South Oneida Street
Ferg5 James E. Ferg, Agent	Home Burger Bar	205 West College Avenue
FirstUskana LLC Ramazan Hajdini, Agent	Seven Angels	1401 East John Street
Flanagan's Wine Review, Inc. Patrick J. Flanagan, Agent	Flanagan's Wine Review	528 West College Avenue
Fox Banquets & Rivertyme Catering Inc Debra M. Michiels, Agent	Fox Banquets & Rivertyme Catering	111 East Kimball Street
Fox Valley Rentals & Investments LLC Brian M. Tomaszewski, Agent	M.T. Pockets	2906 East Newberry Street
Friends & Neighbors, Inc. Michael D. Mattson, Agent	Friends & Neighbors	148 South Walter Avenue
Galvan's LLC Spresium Useini, Agent	Galvan's	2220 East Northland Avenue
Gingerrootz LLC Julia Y. Ng, Agent	Gingerrootz Asian Grille	2920 North Ballard Road
Good Company, Ltd. Trevor J. Reader, Agent	Good Company	110 North Richmond Street
Grand Meridian, Inc. Kenneth G. Vandeyacht, Agent	Grand Meridian	2621 North Oneida Street
Gregg Vandinter	Riverside Bar & Grill	906 South Olde Oneida Street
Grin & Barrett, Inc. Sheli S. Paez, Agent	Hide-A-Way Bar	1400 W Wisconsin Avenue
GT Limited Todd J. West, Agent	Rascal's Bar & Grill	702 East Wisconsin Avenue
Harvey Pierre Post No 2778 Lon R. Bartsch, Agent	VFW Post 2778	501 North Richmond Street

Henry J Grishaber LLC Henry J. Grishaber, Agent	Hank & Karen's	1937 East John Street
Il Angolo Resto-Bar, LLC Conrado Lopez Mendez, Agent	Il Angolo	201 North Appleton Street
Images, LLC Kelly J. Kirchner, Agent	Images Bar	1200 South Oneida Street
International and Caribbean Food Company LLC Freddy A. Orozco, Agent	Paninoteca	2025 North Richmond Street
John C Greiner	Jack's Apple Pub	535 West College Avenue
JTB Appleton LLC Chadwick A. Glasow, Agent	Chadwick's	413 West College Avenue
K Corporation Robert J. Kunstman, Agent	Grumpy's Pub	1501 North Richmond Street
Kim Williams	Corner Pub	1123 North Mason Street
Kim Williams	Study Hall Grill & Pub	313A East Calumet Street
Koreana Restaurants LLC Moon Hee Kwon, Agent	Koreana's	201K West Northland Avenue
Lindo Michoacan Mexican Restaurant LLC Pedro Juarez, Agent	Lindo Michoacan	207 North Richmond Street
Lawrence University of Wisconsin Julie A. Severance, Agent	Viking Room	615 East College Avenue
Lee & Lee	Shadows	211 South Walter Avenue
Marks East Side, Inc. Mark Dougherty, Agent	Mark's East Side	1405 East Wisconsin Avenue
Mc Gregors LLC Christopher J. Halbach, Agent	The Dirty Leprechaun	343 West College Avenue
Mill Creek Blues Café, Inc. Emily P. Johnson, Agent	Mill Creek	417 West College Avenue
MIP LLC Christopher A. Meyer, Agent	McGuinness Irish Pub	201 South Walnut Street

Mojitos Mexican Grill & Bar LLC Shirley Bullock-Vazquez, Agent	Mojitos Mexican Grill	2639 South Oneida Street
Nakashima Sushi, Inc. Lisa S. Nakashima-Lindberg, Agent	Katsu-Ya of Japan	338 West College Avenue
Old Bavarian Brauhaus Inc Franz-Josef K. Schadt, Agent	OB's Brau Haus	523 West College Avenue
OM Investments, LLC Sivakumar Rajarathinam, Agent	Sai Ram Indian Cuisine	253 West Northland Avenue
Patti S Coenen	Fox River House	211 South Walnut Street
Pizza Palace, Inc Jeannie P. Brice, Agent	Pizza Palace	815 West College Avenue
Plamann Bros., Inc. Terrance M. Plamann, Agent	Capitol Centre	725 West Capitol Drive
Richmond St. Pub, Inc. Linda M. Guckenberger, Agent	Richmond Street Pub	1631 North Richmond Street
Riverview Gardens Inc. Cynthia L. Sahotsky, Agent	Riverview Gardens	1101 South Oneida Street
S C Carrow Corp Steven C. Carrow, Agent	Rookies	325 North Appleton Street
Sangrias Mexican Grill 2 LLC Sarah J. Gregory, Agent	Sangria's Mexican Grill	215 South Memorial Drive
Santino LLC Linda M. Mischler, Agent	Houdini's Escape	1216 South Oneida Street
Scubas Pourhouse LLC Steve R. Van Fossen, Agent	Scuba's Pourhouse	1309 East Wisconsin Avenue
Sebastian LLC Michael R. Whiting, Agent	Mi Casa Mexican Grill	2190 South Memorial Drive
Sherry L Galow	Cold Shot	633B West Wisconsin Avenue
Simpson's Red Ox, Inc. John A. Hayes, Agent	Red Ox Supper Club	2318 South Oneida Street



Skyline Productions, Ltd. Clifford J. Diedrick, Agent	Skyline Comedy Café	1004 South Olde Oneida Street
Stone Cellar Brewpub, Inc. Steven T. Lonsway, Agent	Stone Cellar Brew Pub	1004 South Olde Oneida Street
Super Bowl Inc David L. Bardon, Agent	Super Bowl	2222 East Northland Avenue
Supple Fondue LLC John F. Supple III, Agent	The Melting Pot	2295 West College Avenue
Tandem Wine & Beer LLC George H. Koenig, Agent	McKnight & Carlson	1350 West College Avenue
Taste of Thai, Inc. Jimmy B. Phimmasene, Agent	Taste of Thai	321 East College Avenue
Terrill Harvath	The Wishing Well	2709 East Newberry Street
Thao Enterprises Inc Maiyoua Thao, Agent	Chung's Sandwich Bar	1804 South Lawe Street Suite 204
The Big Appleton Corporation Brian A. Glassel, Agent	Glass Nickel Pizza Co.	2120 West College Avenue
The Hideout Bar LLC Amanda K. Ernst, Agent	The Hideout Bar	2828 North Ballard Road
Theodocia LLC Julie A. Neubert, Agent	Spat's	733 West College Avenue
TNE, Inc. Sharon L. Reader, Agent	Emmett's	139 North Richmond Street
Two Bucks Only II LLC Daniel M. Burton, Agent	Maritime Bar	336 West Wisconsin Avenue
Uncle Jim's, LLC Jacqueline T. Strunc, Agent	Uncle Jim's	317 North Appleton Street
Victorias of Appleton Inc Cresencio V. Victoria, Agent	Victoria's Restaurant	503 West College Avenue
WHW Gastropub LLC Daniel J. Hoff Sr., Agent	Appleton Street Sports Bar & Grill	124 North Appleton Street

Wooden Nickel Restaurant & Lounge Inc. Anthony A. Mueller, Agent	Wooden Nickel Sports Bar & Grill	217 East College Avenue
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Yong Larson	Far East	1330 South Oneida Street
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Zhou Japanese Steakhouse LLC Yao Ming Zhou, Agent	TJ's Japanese Steakhouse	4025 East Lorna Lane
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### **EXEMPT "CLASS B" FERMENTED MALT BEVERAGE/LIQUOR LICENSE**

<b><u>NAME</u></b>	<b><u>TRADE NAME</u></b>	<b><u>ADDRESS</u></b>
Beefeaters British Grille & Pub, Inc. Trevor J. Reader, Agent	Beefeaters	2331 East Evergreen Drive
Good Company, Ltd. Trevor J. Reader, Agent	Pullman's at Trolley Square Waterfront Banquets	619 South Olde Oneida Street

### **RESERVE "CLASS B" FERMENTED MALT BEVERAGE/LIQUOR LICENSE**

<b><u>NAME</u></b>	<b><u>TRADE NAME</u></b>	<b><u>ADDRESS</u></b>
10 <sup>th</sup> Frame LLC Chad M. Van Daalwyk, Agent	The 10 <sup>th</sup> Frame	618 West Wisconsin Avenue
AF Inc Chuan Shun Chen, Agent	Bamboo	2230 East Northland Avenue
Appleton Hotel Ventures LLC Toni L. Roloff, Agent	Cambria Suites	3940 North Gateway Drive
Behnke Enterprises, Inc. Mark E. Behnke, Agent	Olde Town Tavern	109 West College Avenue
Blazin Wings, Inc. Geoffery R. Hartman, Agent	Buffalo Wild Wings	3201 East Calumet Street
BT & Dave, LLC Theodore V. Suess, Agent	Speakeasy Ultra Lounge	425 West College Avenue
C-Vine Lounge LLC Conrado Lopez Mendez, Agent	C-Vine Lounge	531 West College Avenue

D2 of Appleton, Inc. Michael J. Lenarduzzi, Agent	D2 of Appleton	403 West College Avenue
Déjà Vu Enterprises LLC Kelly Koroll, Agent	Déjà Vu Martini Lounge	519 West College Avenue
El Patron Restaurant LLC Miguel A. Hernandez, Agent	El Patron Mexican Restaurant	100 East College Avenue
Fox Cities Building for the Arts Inc Pamela Williams-Lime, Agent	Fox Cities Building for the Arts	111 West College Avenue
Fox Cities Hotel Investors LLC Richard Batley, Agent	Copper Leaf Boutique Hotel & Spa	300 West College Avenue
Fox Cities Performing Arts Center, Inc. Maria S. VanLaanen, Agent	Fox Cities Performing Arts Center	400 West College Avenue
Good Company, Ltd. Trevor J. Reader, Agent	Trolley Square Waterfront Banquets	619 South Olde Oneida Street
J Restaurant LLC Jay P. Supple, Agent	Fratellos Riverfront Restaurant	501 West Water Street
Kensington Restaurant, Inc. Carolyn A. VandenBogart, Agent	Cinders	221 South Kensington Drive
Milko, Inc. Samuel D. Kilgas, Agent	The Bar on the Avenue	427 West College Avenue
Red & White, Inc. Paul A. Klister, Agent	Red & White	2400 South Kensington Drive
Rye Inc Ronald C. Schoenfeld, Agent	Rye Restaurant	300 West College Avenue

May 19, 2016

KAMI LYNCH  
CITY CLERK

RUN: May 22, 2016  
May 23, 2016  
May 24, 2016

<b>CITY OF APPLETON POLICY</b>		<b>TITLE: GENERAL POLICY STATEMENT ON BEER/LIQUOR LICENSING</b>	
<b>ISSUE DATE:</b> unknown	<b>LAST UPDATE:</b> <del>April 2015</del> <u>May 2016</u>		
<b>POLICY SOURCE:</b> Office of the City Clerk		<b>TOTAL PAGES:</b> 10	
Reviewed by Attorney's Office Date: <del>March 2015</del> <u>May 2016</u>	Safety and Licensing Committee Approval Date: July 29, 2010 Update approved: Oct. 28, 2010 Update approved: Oct. 13, 2011 Update approved: April 9, 2015	Council Approval Date: August 4, 2010 Update: November 3, 2010 Update: October 19, 2011 Update: April 22, 2015	

## **I. PURPOSE**

The City of Appleton believes the safety and welfare of its citizens and neighborhoods are of highest priority and the judicious dispensing of alcohol is in keeping with this belief. The possession of a beer or liquor license in the city is a privilege not a right; a privilege that must not be taken for granted but rather must be continually conditioned by the holder's adherence to applicable laws and regulations.

## **II. POLICY**

All licenses granted and issued for the sale of fermented or intoxicating liquors shall be carried out under the provisions of W.S.A. Chapter 125 and the City of Appleton Municipal Code, Chapter 9, Article III.

Safety and Licensing Committee shall consider the application at a public meeting at which all interested parties will be given an opportunity to be heard. The Committee will, by a majority vote of those present, make a recommendation to the Common Council which shall consider the application at its next regularly scheduled meeting.

In performing its review and preparing its recommendation for approval or disapproval, the Safety and Licensing Committee shall take the following matters under consideration:

- The existence of the community need will be assessed by the committee. In this regard, such things as the type of operation proposed will be assessed for area and community impact.
- A building should not only be appropriate to the intended use, but should also be appropriate from an aesthetic and tax revenue standpoint.
- The number of licensed premises within the immediate geographic area of the proposed location will be considered.

### III. DISCUSSION

No corporation, partnership or individual will be issued a beer/liquor license until a Special Use Permit has been applied for, if required, for the premises. This would allow for the Community and Economic Development Department to review and determine whether or not the applicant must apply for and receive approval of a Special Use Permit pursuant to the current Zoning Code.

### IV. DEFINITIONS

Abandonment or non-use – means a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was issued by the city for a period of one (1) year. The Common Council may, for good cause shown, extend such period.

Class “A” License – A license to sell beer to consumers in original packages or containers for off-premises consumption.

“Class A” License - A license to sell intoxicating liquor to consumers only in original packages or containers for off-premises consumption.

“Class A” (Cider Only) License – A license to sell cider to consumers for off-premises consumption.

Class “B” License – A license to sell beer to consumers for on-premises or off-premises consumption.

“Class B” License – A license to sell intoxicating liquor to consumers by the glass for on-premises consumption.

“Class C” License – A license to sell wine by the glass or in an opened original container for consumption on the premises where sold.

Grant – (or granting) – means the approval of a license application by the governing body.

Issuance – means completion of the licensing process by distributing the license to the licensee after department approvals are met and proof of payment of the license fee has been received by the appropriate municipal official.

Temporary Class “B” or Temporary “Class B” – A license to sell beer or wine at a picnic or similar gathering of limited duration. Such license may be issued only to a bona fide club, local or county fair, agricultural societies, churches, lodges or societies that have been in existence for at least six months.

Reserve “Class B” license – A liquor license available under the quota system existing before Dec. 1, 1997 that were not granted or issued by the municipality as of Dec. 1, 1997 and determined by engaging in a series of calculations as described in Wis. Statutes.

Provisional Retail license – A license issued to a person who has applied for a Class “A”, Class “B”, “Class A”, “Class B”, or “Class C” license for a period of 60 days or when the license is issued to the holder, whichever is sooner.

## **V. PROCEDURES**

All new and renewal license applications shall be filed with the Office of the City Clerk on State of Wisconsin approved application forms. No other form will be accepted. A new application shall include respective Auxiliary Questionnaire for each member of the legal entity, Schedule for Appointment of Agent, proof of responsible beverage server’s course (if applicable), copy of FEIN, copy of State Seller’s permit, and a copy of proof of control of the premise (i.e., lease or purchase agreement). A minimum \$50.00 processing fee and publication fee (\$60.00 – new application, \$20.00 – renewal application) must be paid prior to the processing of the license application. All remaining fees, including outstanding obligations to the city, must be paid or subject to an agreed-upon payment arrangement prior to the issuance of the license.

When the license application is filed for all applications for Class “A”, “Class A”, Class “B”, “Class B”, and Class “C” with the City Clerk, it shall be forwarded to the Director of Community Development, the Inspection Supervisor, the Health Officer, the Police Chief, the Fire Chief, and the Finance Director, ~~the Alderperson of the ward~~ for information and review. The purpose of the review shall be to assemble information regarding applications for beer and liquor licenses which may be helpful to the Safety and Licensing Committee in its decision-making process.

When a provisional retail license is requested, the City Clerk shall inform the applicant that they must possess a Health license prior to operating this business. The City Clerk shall immediately notify the Health Department when such license has been issued.

Based upon the findings of the review, a written report by the staff member shall be submitted to the City Clerk who will present this information to the Safety and Licensing Committee. The Common Council shall not consider any application requiring staff review until it has been on file with the City Clerk for a minimum of fifteen (15) days.

The City Clerk will provide each applicant with a copy of all City policies and ordinances covering liquor and beer licensing. In addition, the Clerk will inform the applicant that one or more meetings will be scheduled at which the applicant’s request will be discussed.

### **Staff Inspection Procedures**

All approving departments shall investigate and shall provide a written report to the City Clerk.

**Police Department Investigation:**

1. The character and reputation of the applicant including the applicant's criminal record based upon a local and state check.
2. A financial background investigation of the corporation, partnership or individual.
3. If the owner is a corporation, a complete listing of all corporate officers and stock holders owning more than 10% of the shares.
4. A detailed summary of the nature of the proposed operation, to include: Special features or operating policies which may impact the demand for police services.
5. Whether the applicant currently has or previously had another Class A, B or C license in the city or in the State or is involved in multiple ownership circumstances.
6. Also, to be considered will be the design, type and size of the proposed establishment and the operational details; number of floor personnel and door checkers; the groups to which the proposed establishment intends to cater; noise, crowd, parking lot control methods; outdoor facilities; and plans for live entertainment including decibel level and soundproofing measures.
7. The review of the operation should include if there is any agreed-to restriction that would enhance the application, i.e., a service bay only, beer only, the hours of operation, and the number of bar stools.

**Fire Department Investigation:**

1. Compliance with all State and Local Fire codes.
2. Proper posting of capacity sign in an approved location.
3. Fire inspection history with facility and/or owner.
4. Any other items of concern regarding fire prevention and/or suppression.

**Health Department Inspection:**

1. The proposed building's compliance with all health code provisions.
2. The condition of the building and equipment from a health-standard viewpoint.
3. Any previous problems from a Health Department standpoint with the proposed owner.
4. Other health matters of potential concern.

**Community and Economic Development Department Investigation:**

1. Ensure that all requirements of the Special Use Permit have been met. Review and determine whether or not the applicant must apply for and receive approval of a Special Use Permit pursuant to the current Zoning Ordinance.
2. Ensure the use of the building or property is allowed as a permitted use or special use in the Zoning District in which it is located.
3. Such things as traffic, parking and other related issues will be reviewed for their impact on the surrounding area.
4. Other planning and development factors.

**Inspection Division Investigation:**

1. Compliance with state building code and local building and zoning code requirements.
2. Any previous building code problems with the proposed owner.
3. Other items of concern from a building inspection standpoint.

**Related Procedures for License Recommendations**

1. The Police, Fire and Health departments shall make a minimum of one inspection during each license year. The most recent inspection shall be used to make recommendations on granting the renewal license.
2. Inspection Division shall inspect the licensed premise only when a new application is received, a change of ownership is requested, or a complaint against the property is received.
3. With regard to the license renewal period, all compliance shall be completed before issuance. All applicants who do not apply for renewal by April 15<sup>th</sup> will not receive the reduced renewal fee.
4. Throughout the license year, the Police and Health Departments shall notify the Safety and Licensing Committee of any convictions which result in the assessment of demerit points against any license.
  - a. Accumulation of demerit points shall be grounds for recommending non-renewal, revocation, suspension, denial or transfer or granting of the license. The Safety and Licensing Committee may recommend that prosecution be undertaken by the City Attorney. Such action shall not preclude independent prosecution by the City Attorney.
  - b. If the Safety and Licensing Committee recommends that prosecution be undertaken by the City Attorney, a hearing shall be scheduled before the Safety and Licensing Committee. If a hearing takes place, the Safety and Licensing Committee shall comply with the requirements of Section 9.54 of the Municipal



Code and the suspension or revocation would take place the Friday following Council action. Prior to the hearing date, the City Attorney may work out a settlement agreement with the licensee in lieu of the hearing. Any settlement agreement shall comply with the requirements of Section 9.54 of the Municipal Code and must be approved by the Safety and Licensing Committee and the Common Council, and begin within a 13-day period of Council action.

c. If the license is suspended by the Safety and Licensing Committee and the Common Council, the City Clerk will provide that licensee with a sign that must be posted in a conspicuous location on the premise. The sign shall read as follows:

<p>The (type of license) for this establishment: (establishment name, agent and address) is suspended from (date and time approved by Safety and Licensing Committee and Common Council) through (date and time approved by Safety and Licensing Committee and Common Council) due to the establishments violation of State Statute(s) and/or the Appleton City Ordinance(s) prohibiting (type of violation(s)).</p> <p>By Order of the City of Appleton Safety and Licensing Committee and the Appleton Common Council on (date suspension is approved).</p>
---

### **Sale of Fermented Malt Beverages in a Park by the City**

The City cannot grant a license to sell fermented malt beverages to itself. However, pursuant to W.S.A. 125.06, the sale of fermented malt beverages can occur in a public park operated by a municipality without a license as long as the municipality authorizes the sale. The Parks and Recreation Committee has jurisdiction to consider whether the sale of fermented malt beverages shall be allowed in a park. The Committee will, by a majority vote of those present, make a recommendation to the Common Council. If the Parks and Recreation Committee and the Common Council authorize the sale of fermented malt beverages in any park the following will apply:

1. Any person serving fermented malt beverages shall obtain an operator's license.
2. The police department will periodically conduct inspections and Controlled Alcohol Transaction (CAT) checks at these locations.

3. The police department shall report any violations to the Park and Recreation Committee and the Safety and Licensing Committee.
4. Since technically a license cannot be obtained, demerit points cannot be assessed according to ordinance if a violation occurs at such a location. Therefore, demerit points shall be assessed to the location as if the location has a license in the same manner established in City Ordinance 9-54.
5. The Park and Recreation Committee shall suspend the authorization granted pursuant to W.S.A. 125.06 to sell fermented malt beverages in any public park for not less than 10 days or more than 90 days if the location accumulates demerit points totaling 150-199 within a 12 month period.
6. The Park and Recreation Committee shall revoke the authorization granted pursuant to W.S.A. 125.06 to sell fermented malt beverages in any public park for at least 12 months if the location accumulates demerit points totaling 200 or more within an 18 month period.

### **Waiting List**

1. If the City has met its quota on the issuance of “Class B” Beer/Liquor License, a waiting list of those persons wishing to obtain a license will be established. The names will be added to the list in the order that they are received.
2. Every year at license renewal time, this list shall be updated. It shall be the requirement of the requestor to submit a written request no later than July 1 to the Office of the City Clerk indicating their name, company or corporation, and the proposed address, if known, indicating their desire to remain on the list. A letter confirming their placement will be sent after July 1.
3. If a license becomes available, the first person on the list will be notified and given 10 business days to respond. If they do not respond within the 10 business days, the next person on the list shall be notified.

### **Inactive (Abandoned) Licenses**

1. Any licensee issued a license to sell alcohol beverages that abandons such business shall forfeit any right or preference the licensee may have to the holding of or renewal of such license.
2. Abandonment shall be sufficient grounds for revocation or non-renewal of any alcohol beverage license.
3. The Appleton Police Department will notify the City Clerk, in writing, of any establishment that has abandoned their license. An Inactive license will meet the definition of abandonment or non-use under Section 9-52(9) of the Appleton Municipal Code.
4. Upon receipt of this notification, the City Clerk will send a certified letter to the owner(s) and/or Agent as indicated on the original application for the sale of intoxicating liquors. The date of letter will be the defining date for determining a one year period.

5. The license holder may request an extension of the one year period. An extension may be granted for good cause. Any extension of the one year period shall be reviewed and approved by the Safety and Licensing Committee and Common Council prior to the expiration of the one year deadline.
6. If after one year, the establishment is still deemed as Inactive, a revocation or non-renewal hearing shall be held.

## **Convenience Store Beer License Regulations**

The Safety and Licensing Committee and the Common Council of the City of Appleton issue Class A licenses to convenience stores with the provision that only Class “A” beer licenses will be issued to convenience stores also selling gasoline.

Certain limits will be placed on the issuance of those licenses:

1. The City of Appleton shall issue no more than one license for every 1500 persons residing in the City, to be reviewed every 5 years, with the next review to be done in the year 2021~~14~~<sup>16</sup>.
2. The establishment shall be limited to twenty (20) percent the amount of floor area used relating to the sale of alcoholic beverages.
3. The hours of operation for all Class “A” beverage sales will be 8:00 a.m. to 12:00 midnight.
4. If the applicant has previously held a license and has required an inordinate number of police calls to maintain order and public presence as a good neighbor, those facts may be considered as ground for denial of the license.

## **Reserve “Class B” Economic Development Grant**

~~In December 1997, the State of Wisconsin passed a law which requires municipalities to charge a fee of \$10,000.00 for all “Class B” Beer/Liquor Licenses. This fee is in addition to the regular fees set by the municipality for this type of license.~~

~~The City of Appleton, in February 1998, approved action to develop a grant program to refund all or part of the \$10,000.00 fee. This action states:~~

~~“That this grant be made available to any successful applicant who has paid the full \$10,500.00 application and processing fees for said license and can demonstrate that they have improved the property involved in an amount equal to or greater than the amount of the grant as long as state law requires the \$10,000 fee.”~~

~~We find that businesses such as restaurants, hotels and taverns make important contributions to the City’s economy. These establishments serve important public purposes including increasing the City’s property tax base, providing employment~~

~~opportunities, attracting tourists and generally enhancing the economic and cultural climate of the community.~~

~~The grant application can be submitted to the Office of the City Clerk after the license is issued for all or any portion of the \$10,000.00 fee. The application is sent to various departments for their review and is then submitted to the Safety and Licensing and Common Council for approval. After the final Common Council approval, the Finance Committee will take action to approve the budget appropriation prior to the refunding of the grant dollars. This process may take 6 to 8 weeks to complete.~~

### **Special Class “B” Beer, “Class B” Wine Licenses**

Special Class “B” Beer and Special “Class B” Wine Licenses may be issued by the City Clerk after approval is granted by the Safety and Licensing Committee and all necessary department recommendations are satisfied.

All applications for Special Class “B” Beer Licenses must be on file in the Office of the City Clerk for at least ten (10) working days. All applications for Special “Class B” Wine licenses must be on file in the Office of the City Clerk for at least 15 days.

Should the Safety and Licensing Committee deny approval of any Special Class “B” Beer or “Class B” Wine License, such denial shall be considered as a recommendation to the Common Council. Said request is forwarded to the Common Council for its approval or denial.

### **Sidewalk Café**

A Class B license holder may serve alcoholic beverages in the sidewalk café area as long as a Special Use Permit has been granted for the sidewalk café and the Class B license has been amended to include the parameters of the sidewalk café. In addition, pursuant to Section 9-262 of the Municipal Code, the licensee must comply with all regulations pertaining to sidewalk cafes.

### **Open Street Concept - Special Class “B” Beer License**

The Safety and Licensing Committee may recommend approval of the Open Street Concept when granting a Special Class “B” Beer License and forward to the Common Council for final approval.

To develop a consistent procedure regarding licensure of Special Class “B” Fermented Malt Beverage sales at all events occurring within the City where the organizers are requesting open concept sales and provide for an environment that promotes public health and safety regarding alcohol consumption at these events, the Safety and Licensing Committee may require additional restrictions when considering requests for Special Class “B” Beer licenses involving open concept sales. “Open Concept” refers to the sale and consumption of beverages which are allowable with a Special Class “B” Beer license

within a geographically defined area that is not secured or enclosed by fences or other physical barriers.

The Safety and Licensing Committee may require the organizers of such events to comply with beverage sale restrictions, or any other restrictions the Committee or the Common Council may deem appropriate.

In addition, the Safety and Licensing Committee reserves the right to limit the number of open concept events held within the City each license year.

### **Open Street Concept - Beverage Sale Restrictions**

1. Fermented malt beverages shall be served in single portion containers, not to exceed 16 oz.
2. Sale of fermented malt beverages shall halt at least one half hour prior to the end of the scheduled activities or entertainment.
3. Comparable non-alcoholic beverages (e.g., soda) should be made available in at least the same number of service sites as alcoholic beverages.
4. There must be at least one person per dispensing site on premises at all times who is licensed under Section 9-71 of the Municipal Code to supervise the service of beverages.
5. The sponsoring organization will:
  - provide and implement a plan and mechanism of identification to ensure that persons under the legal drinking age are not served alcoholic beverages;
  - provide and implement a plan for event security;
  - promote designated driver programs which could include free non-alcoholic beverages, a contract with taxi or bus company for free rides, or other means to promote incentive for responsible choices;
  - provide and implement promotional advertising campaigns that incorporate messages of abstinence or responsible use, such as printed ads and radio/television spots that encourage such messages in conjunction with the event's promotional information;
  - provide and implement an onsite advertising campaign devoted to messages of abstinence, responsible use, and the health risks associated with alcohol consumption, such as posters, banners, etc.

*Updated and approved by Council  
April 2015*

Operator's Licenses for 5/25/16 S & L

Approved

Angela L. Troxoll	1617 W. Weiland Lane
Jennifer L. Horkman	801 S. Olson Avenue, #G
Michelle M. Schommer	10 Solar Circle
Shirley A. Sitter	2620 E. Crestview Drive
Tamara H. Grueski	1815 E. Robin Way, #G
Allan J. VanderVelden	1025 W. Hawes Avenue
Nicolo Sollena	5024 Waterford Drive
Viralkumar H. Patel	200 N. Perkins Street, #111

Renewal Operator's Licenses for 5/25/16 S & L

Approved

Alyssa M. Triano	519 E. Fremont Street
Andrew M. Adams	625 N. Briarcliff Drive, #B
April M. Arndt	220 W. Ann Street, Kaukauna
Beth A. Fietzer	726 Valley Road, Menasha
Brittany L. Neisen	3000 E. Meadowlark Lane
Brian E. Petersen	309 N. Rankin Street
Bryan J. Burns	18 Baldwin Avenue, Oshkosh
Christine A. Sauer	117 Cumings Lane, Neenah
Cindy G. Penkala	932 E Washington Street
Daniel J. Moreno	2310 Abbey Avenue, Oshkosh
Diana D. Oberg	3400 W. Justin Street
Elora A. King	1006 W. Spring Street
Erik L. Williams	1935 N. Division Street
Erin R. VandenBloomer	1418 S. Lawe Street
Greg J. Strelow	W2640 Saratoga Drive
Jamie L. Schuelke	1822 Chain Drive, #3, Menasha
Jamie L. Gast	1520 Tri Park Way, #7
Jennifer L. Fiser	515 ½ 8 <sup>th</sup> Street, Menasha
Kaylee M. Sumpter	120 E. Spring Street, #B
Lamon Robinson	1316 Honeysuckle Lane, #305, Neenah
Marisa R. Sheppard	308 W. Commercial Street
Nancy Mauel	1519 N. Douglas Street
Nathan R. Milker	600 ½ W. College Avenue
Rachel R. Mauthe	1436 E. Lindbergh Street
Samuel S. Burton	1510 E. Tracia Lane
Shirley Bauman	929 S. West Court, #C
Stuart D. Herbst	903 N. Appleton Street
Susan E. Penna	948 E. Lindbergh Street
Thomas F. Marshall	1166 Fieldview Drive, Menasha
Toua Lee	W3066 Cara Way



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Informal Hearing Meeting Date:** April 25, 2016

**Common Council Public Hearing Meeting Date:** May 18, 2016 (Public Hearing on Rezoning)

**Item:** Rezoning #3-16

**Case Manager:** Jeff Towne

### GENERAL INFORMATION

**Owner:** Kenneth Kurey and Kurey Brothers Partnership

**Applicant:** Martenson & Eisele, Inc.; c/o Michael Roubal

**Address/Parcels #:** Broadway Drive (#31-1-9310-11 and #31-1-9310-12)

**Petitioner's Request:** The applicant is requesting a Rezoning to change the Zoning Map from AG Agricultural District to R-1A Single-Family District for the subject properties. The request is being made to accommodate division of the property for the future construction of a single-family residence.

### BACKGROUND

The overall site consists of three proposed lots: Lot 1 (4.0 acres) and Lot 2 (1.78 acres), which are the subject of the rezoning request. The remnant of 31-1-9310-11 will be Lot 3 (12.031 acres), which will remain zoned AG Agricultural District, and is not part of the rezoning request. This area was annexed from the Town of Center in 2006 (Kurey Annexation). The existing home on proposed Lot 2 was constructed while the subject parcel was in the Town of Center.

A three-lot Certified Survey Map (CSM) was submitted in conjunction with the rezoning request to create lots consistent with the proposed rezoning. CSMs are administratively reviewed and approved by City staff.

### STAFF ANALYSIS

**Existing Conditions:** The subject area is currently developed with a single-family dwelling, accessory structures, and a gravel driveway.

**Proposed Zoning Classifications:** The purpose of the R-1A Single-Family District is to provide for, and maintain, residential areas characterized predominately by single family detached dwellings on larger sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential land uses.

**Zoning Ordinance Review Criteria:** Based on initial CSM review, the proposed lots meet the applicable development standards for the R-1A Single-Family District, per Section 23-92(g) of the Municipal Code.



**Surrounding Zoning Classification and Land Uses:**

North: AG Agricultural District – The adjacent land uses to the north are currently agricultural.

South: Town of Grand Chute – The adjacent land use to the south is Plamann Park.

East: AG Agricultural District – The adjacent land uses to the east are currently agricultural.

West: AG Agricultural District – The adjacent land uses to the west are currently agricultural.

**General Information:** A rezoning is often triggered by development proposals or changing circumstances in the City. In this case, the desire to divide parcel #31-1-9310-11 into three lots in order to sell the subject property prompted the applicant to submit the rezoning request. A prospective buyer plans to build a residence on the property in the future, which will be accessed through an easement.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* identifies this area for future one and two-family residential uses. The proposed R-1A Single-Family District rezoning is consistent with the Future Land Use Map. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

*Goal 1 – Community Growth*

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

**OBJECTIVE 5.3 Housing and Neighborhoods:**

*Provide a range of housing styles that meet the needs and appeal to all segments of the community.*

**OBJECTIVE 10.1 Land Use:**

*Provide an adequate supply of suitable land meeting the demand for development of various land uses.*

**Standards for Zoning Map Amendments:** Per Section 23-65(d)(3) of the Municipal Code, all recommendations for Official Zoning Map amendments shall be consistent with the adopted plans, goals, and policies of the City and with the intent of this zoning ordinance. Related excerpts are listed below.

- a. Prior to making a recommendation on a proposed rezoning, the Plan Commission shall make a finding to determine if the following conditions exist. No rezoning of land shall be approved prior to finding at least one (1) of the following:
  1. The request for a zone change is in conformance with the Comprehensive Plan for the City of Appleton. *The rezoning request is in conformance with the Comprehensive Plan 2010-2030, as the Future Land Use Map identifies this area for future one and two-family residential uses.*
  2. A study submitted by the applicant that indicates that there has been an increase in the demand for land in the requested zoning district, and as a result, the supply of land within the City mapped as such on the Official Zoning Map, is inadequate to meet the demands for such development.

3. Proposed amendments cannot be accommodated by sites already zoned in the City due to lack of transportation, utilities or other development constraints, or the market to be served by the proposed use cannot be effectively served by the location of the existing zoning district(s).
  4. There is an error in the code text or zoning map as enacted.
- b. In addition to the findings required to be made by subsection (a), findings shall be made by the Plan Commission on each of the following matters based on the evidence presented:
1. The adequacy of public facilities such as transportation, utilities and other required public services to serve the proposed site. *The transportation network should be able to accommodate the proposed rezoning. The existing residence is not currently connected to City water, which is available in Broadway Drive. The property is not served by City sewer, which is not available at this time. The existing residence will not be required to connect to City services as this is an existing structure and no changes are proposed. The new dwelling shall connect to City water. It will take other development in the surrounding area to justify extending sanitary sewer to the subject site, and there is no specific timeline set. Therefore, obtaining septic permits from Outagamie County will be necessary for future residential use, until such time that City sanitary sewer becomes available.*
  2. The effect of the proposed rezoning on surrounding uses. *The rezoning should not immediately impact surrounding properties. The creation of single-family parcels of this size (4.0 acres) creates very low density residential development which could create inefficiencies in the delivery of city services to future developments in the immediate area.*

**Review Criteria:** Based upon the above analysis, it would appear the criteria established by Section 23-65(d)(3) Zoning Amendments has been satisfied.

**Technical Review Group (TRG) Report:** This item was discussed at the April 5, 2016 Technical Review Group meetings.

- Department of Public Works Comments: City water is available on Broadway Drive, and the new residence shall connect to City water service. Obtaining septic permits from Outagamie County would be needed for a new residential use, until such time that City sewer becomes available.

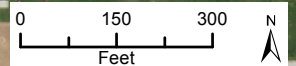
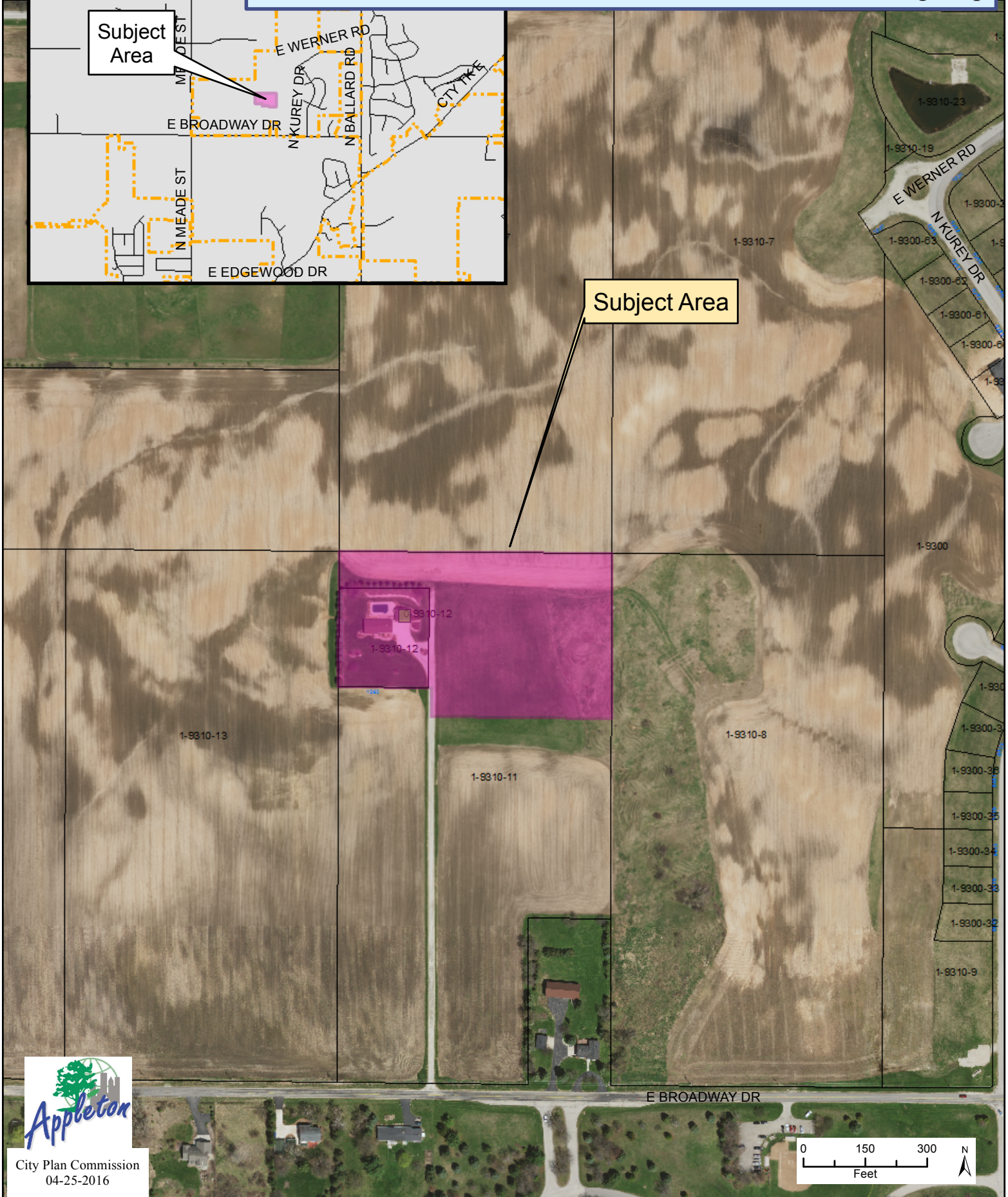
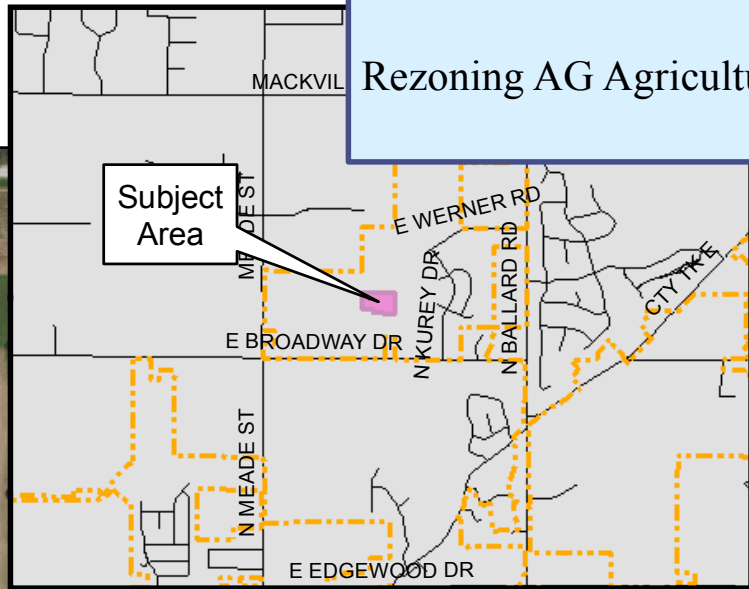
## **RECOMMENDATION**

Staff recommends, based upon the standards for zoning map amendments as required by Section 23-65(d)(3) of the Zoning Ordinance, that Rezoning Application #3-16 to rezone the subject site located on Broadway Drive (parcels #31-1-9310-11 and #31-1-9310-12) from AG Agricultural District to R-1A Single-Family District, as shown on the attached map, **BE APPROVED**.

East Broadway Drive  
Rezoning AG Agricultural District to R-1A Single-Family District  
Zoning Map

Subject  
Area

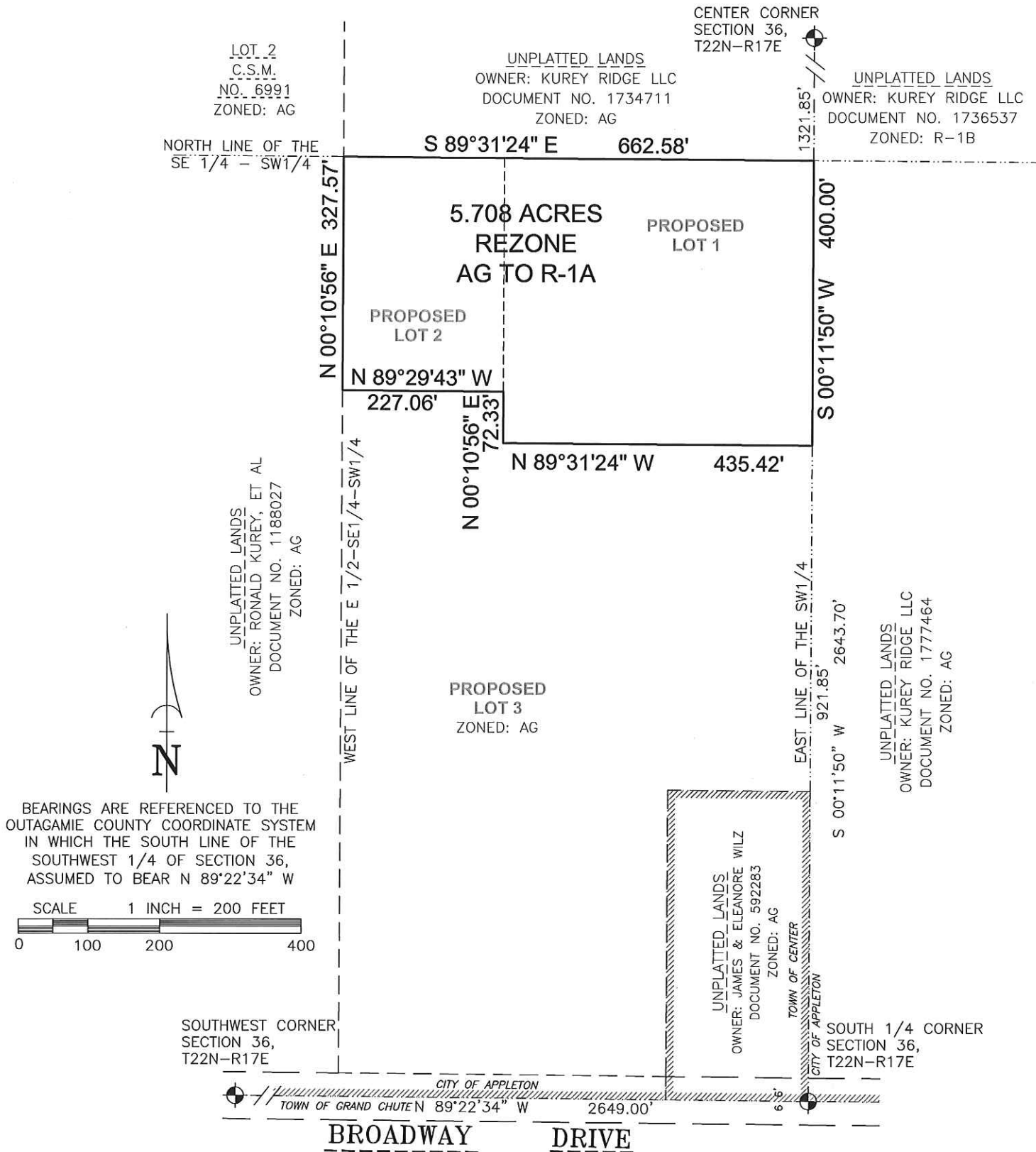
Subject Area





# REZONING REFERENCE MAP

PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 22 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.



**Martenson & Eisele, Inc.**



1377 Midway Road  
Menasha, WI 54952  
www.martenson-eisele.com  
info@martenson-eisele.com  
920.731.0381 1.800.236.0381

Planning  
Environmental  
Surveying  
Engineering  
Architecture

PROJECT NO. 1-0750-001

FILE 1-0750-001rezone.dwg

THIS INSTRUMENT WAS DRAFTED BY: LWL

## REZONING LEGAL DESCRIPTION AG TO R-1A

PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, SECTION 36,  
TOWNSHIP 22 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN,  
MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 36; THENCE NORTH 00 DEGREES 11 MINUTES 50 SECONDS EAST, ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION, A DISTANCE OF 921.85 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 31 MINUTES 24 SECONDS WEST, A DISTANCE OF 435.42 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 56 SECONDS EAST, A DISTANCE OF 72.33 FEET; THENCE NORTH 89 DEGREES 29 MINUTES 43 SECONDS WEST, A DISTANCE OF 227.06 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 56 SECONDS EAST, ALONG THE WEST LINE OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION, A DISTANCE OF 327.57 FEET; THENCE SOUTH 89 DEGREES 31 MINUTES 24 SECONDS EAST, ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION, A DISTANCE OF 662.58 FEET; THENCE SOUTH 00 DEGREES 11 MINUTES 50 SECONDS WEST, ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION, A DISTANCE OF 400.00 FEET TO THE POINT OF BEGINNING. CONTAINING 248,575 SQUARE FEET [5.708 ACRES].

PROJECT NO. 1-0750-001  
FILE Q:\1-0750-001\DanImmel\Rezoning  
MARCH, 10 2016, Revised April 15, 2016  
L. LUCHT



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

**PARKS, RECREATION & FACILITIES  
MANAGEMENT**

**Dean R. Gazza, Director**

1819 East Witzke Boulevard  
Appleton, Wisconsin 54911-8401  
(920) 832-5572 FAX (920) 993-3103  
Email - [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org)

**To:** Finance Committee

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

**Date:** May 24, 2016

**Re:** Action: Request to declare contractor default and terminate contract for Municipal Services Building Trench Drain Reconstruction to Wood Sewer & Excavating, Inc. in the amount of \$199,660.

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The bids for the Municipal Services Building Trench Drain Reconstruction Project were opened on Thursday, April 22, 2015 in which a contract was awarded to Wood Sewer and Excavating, Inc. The project included the removal and installation of the current trench drain that is located throughout the garage areas of the Municipal Services Building.

Wood Sewer and Excavating, Inc. attempted to complete this work, but did so in a manner that does not conform to the specifications. After numerous attempts to remedy the situation with the contractor, we were unsuccessful to agree on a solution.

Wood Sewer was paid a total of \$102,210.95, thus leaving a remaining balance of \$97,449.05.

This job has a performance bond which the City will pursue to ensure the work gets completed as originally intended. A performance bond is a written guaranty from a third party guarantor by a contractor upon winning the bid. A performance bond ensures payment of a sum of money in case the contractor fails in the full performance of the contract and ultimately the proper completion of the project.

With assistance from the Legal Services Department, we have already started discussions with the bonding company to make a claim on the performance bond. As a first step to this claim process, terms of the bond require the City to declare Wood Sewer has defaulted on the contract and terminate the contract.

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



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

**PARKS, RECREATION & FACILITIES  
MANAGEMENT**

**Dean R. Gazza, Director**

1819 East Witzke Boulevard  
Appleton, Wisconsin 54911-8401  
(920) 832-5572 FAX (920) 993-3103  
Email - [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org)

TO: Finance Committee

FROM: Dean R. Gazza

DATE: 5/24/2016

RE: Action: Request to reallocate \$32,000 of the positive variance from the Park Pavilion Roofs project toward the Alicia Park Hill Slope investigation for engineering fees and any required site work determined to be required to stabilize the hillside from further slides.

On April 26, 2016 it was discovered that a portion of the relatively steep slope in Alicia Park along the Fox River has experienced a sudden slope instability. Approximately 200-250 feet of the crest of the slope has slid down the slope such that there is an approximate 5 to 6 feet of exposed slip failure surface and drops off from the existing grades at the crest of the slope. Soil was also noticed to be slightly humped up just above the river bank. The visual review also noted several additional slip planes on the surface in the failure area and also that there appeared to be various fill items on the slope such as bricks, glass and asphalt pieces. Fill was also noted at the crest of the slope where the slip failure surface was exposed.

This request seeks to reallocate the balance of \$32,000 from the positive variance from the park pavilion roof projects to obtain a geotechnical investigation in the area of the existing slope instability and for the proposed site design services to adjust the site grading to match into the slope instability area.

Please contact me at 832-5572 or at [deangazza@appleton.org](mailto:deangazza@appleton.org) with any questions.

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

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

**SUBJECT: Award of Contract**

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

Unit E-16 Miscellaneous Concrete & Street Excavation Repairs

**Be awarded to:**

Name: Al Dix Concrete, Inc.

Address: 500 Draper Street

Kaukauna, WI 54130

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

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

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

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

**In an amount Not To Exceed :** \$497,500.00

Budget: \$497,500.00

Estimate: \$497,500.00

Committee Date: 05/24/16

Council Date: 06/01/16



**BID TABULATION**

**MISC CONCRETE & STREET EXCAVATION REPAIRS**

**UNIT E-16**

Item	Description	Qty./	Unit	#1 - Al Dix Concrete, Inc.		#2 - Fischer Ulman Const. Inc.		#3 - Jim Fischer, Inc.	
				Unit Price/\$	Total/\$	Unit Price/\$	Total/\$	Unit Price/\$	Total/\$
1.	Furnish & Install High Early Concrete, 1 Day	40	cuyds.	\$20.00	\$800.00	\$21.00	\$840.00	\$20.00	\$800.00
2.	Furnish & Install High Early Concrete, 3 Day	80	cuyds.	\$14.00	\$1,120.00	\$14.00	\$1,120.00	\$15.00	\$1,200.00
3.	Furnish & Install 9" Plain Concrete Pavement	30	sqyds.	\$55.00	\$1,650.00	\$60.00	\$1,800.00	\$75.00	\$2,250.00
4.	Furnish & Install 8" Plain Concrete Pavement	2,100	sqyds.	\$48.00	\$100,800.00	\$49.50	\$103,950.00	\$50.00	\$105,000.00
5.	Furnish & Install 8" Doweled Concrete Pavement - Fire Station #1	1,672	sqyds.	\$51.00	\$85,272.00	\$60.00	\$100,320.00	\$52.00	\$86,944.00
6.	Furnish & Install 7" Plain Concrete Pavement	1,900	sqyds.	\$46.00	\$87,400.00	\$48.70	\$92,530.00	\$48.00	\$91,200.00
7.	Furnish & Install 4" Asphalt Pavement	100	sqyds.	\$40.00	\$4,000.00	\$54.00	\$5,400.00	\$200.00	\$20,000.00
8.	Furnish & Install 3" Asphalt Pavement	550	sqyds.	\$38.00	\$20,900.00	\$50.00	\$27,500.00	\$90.00	\$49,500.00
9.	Furnish & Install 2" Asphalt Pavement	50	sqyds.	\$35.00	\$1,750.00	\$49.00	\$2,450.00	\$220.00	\$11,000.00
10.	Unclassified Excavation	1,100	cuyds.	\$15.00	\$16,500.00	\$9.50	\$10,450.00	\$15.00	\$16,500.00
11.	Furnish & Install Stone Base	425	ton	\$13.00	\$5,525.00	\$15.00	\$6,375.00	\$20.00	\$8,500.00
12.	Furnish & Install 8" Stone Base - Fire Station #1	1,788	sqyds.	\$8.00	\$14,304.00	\$9.75	\$17,433.00	\$20.00	\$35,760.00
13.	Provide Fine Grading - Fire Station #1	1,788	sqyds.	\$0.50	\$894.00	\$1.15	\$2,056.20	\$1.00	\$1,788.00
14.	Furnish & Install Ground Stabilization Fabric - Fire Station #1	1,788	sqyds.	\$2.25	\$4,023.00	\$1.45	\$2,592.60	\$2.00	\$3,576.00
15.	Furnish & Place Aggregate Slurry	10	cuyds.	\$100.00	\$1,000.00	\$75.00	\$750.00	\$100.00	\$1,000.00
16.	Furnish & Install 18" Curb & Gutter	75	lin.ft.	\$23.00	\$1,725.00	\$24.50	\$1,837.50	\$30.00	\$2,250.00
17.	Furnish & Install 30" Curb & Gutter	550	lin.ft.	\$25.00	\$13,750.00	\$27.00	\$14,850.00	\$30.00	\$16,500.00
18.	Furnish & Install Special Curb	40	lin.ft.	\$25.00	\$1,000.00	\$25.00	\$1,000.00	\$30.00	\$1,200.00
19.	Furnish & Install 8" Driveway Apron	425	sq.ft.	\$5.10	\$2,167.50	\$5.50	\$2,337.50	\$6.00	\$2,550.00
20.	Furnish & Install 7" Driveway Apron	650	sq.ft.	\$4.75	\$3,087.50	\$5.55	\$3,607.50	\$5.50	\$3,575.00
21.	Furnish & Install 5" Driveway Apron	3,200	sq.ft.	\$4.25	\$13,600.00	\$4.40	\$14,080.00	\$4.00	\$12,800.00
22.	Furnish & Install 8" Concrete Sidewalk	250	sq.ft.	\$5.10	\$1,275.00	\$5.70	\$1,425.00	\$6.00	\$1,500.00
23.	Furnish & Install 7" Concrete Sidewalk	450	sq.ft.	\$4.75	\$2,137.50	\$5.10	\$2,295.00	\$5.75	\$2,587.50
24.	Furnish & Install 5" Concrete Sidewalk	2,000	sq.ft.	\$4.25	\$8,500.00	\$4.23	\$8,460.00	\$4.00	\$8,000.00
25.	Furnish & Install 4" Concrete Sidewalk	5,750	sq.ft.	\$3.95	\$22,712.50	\$4.05	\$23,287.50	\$3.75	\$21,562.50
26.	Furnish & Install 7" Handicap Ramp	500	sq.ft.	\$5.00	\$2,500.00	\$5.50	\$2,750.00	\$6.00	\$3,000.00
27.	Furnish & Install Truncated Dome	125	sq.ft.	\$29.00	\$3,625.00	\$29.50	\$3,687.50	\$34.00	\$4,250.00
28.	Concrete Pavement Removal	1,600	sq.yd.	\$5.00	\$8,000.00	\$2.00	\$3,200.00	\$6.00	\$9,600.00
29.	Asphalt Pavement Removal	2,600	sq.yd.	\$5.00	\$13,000.00	\$1.50	\$3,900.00	\$4.50	\$11,700.00

BID TABULATION

MISC CONCRETE & STREET EXCAVATION REPAIRS

UNIT E-16

Item	Description	Qty./	Unit	#1 - Al Dix Concrete, Inc.		#2 - Fischer Ulman Const. Inc.		#3 - Jim Fischer, Inc.	
				Price/\$	Total/\$	Unit Price/\$	Total/\$	Unit Price/\$	Total/\$
30.	Curb & Gutter Removal	550	lin.ft.	\$5.00	\$2,750.00	\$5.00	\$2,750.00	\$5.50	\$3,025.00
31.	Curb Removal	40	lin.ft.	\$5.00	\$200.00	\$5.00	\$200.00	\$5.00	\$200.00
32.	Asphalt/Concrete Driveway Apron Removal	4,100	sq.ft.	\$1.00	\$4,100.00	\$1.00	\$4,100.00	\$1.25	\$5,125.00
33.	Asphalt/Concrete Handicap Ramp Removal	500	sq.ft.	\$1.00	\$500.00	\$1.00	\$500.00	\$1.25	\$625.00
34.	Asphalt/Concrete Sidewalk Removal	8,250	sq.ft.	\$1.00	\$8,250.00	\$1.00	\$8,250.00	\$1.25	\$10,312.50
35.	Full Depth Sawcut	8,750	lin.ft.	\$3.00	\$26,250.00	\$2.75	\$24,062.50	\$3.75	\$32,812.50
36.	Furnish & Install Reinforcing Rod #4's	50	lin.ft.	\$1.50	\$75.00	\$2.00	\$100.00	\$1.20	\$60.00
37.	Furnish & Install Drilled-In Tie Bars	3,350	ea.	\$6.00	\$20,100.00	\$6.35	\$21,272.50	\$7.50	\$25,125.00
38.	Furnish & Install Smooth Dowels (DOT)	20	ea.	\$12.00	\$240.00	\$15.00	\$300.00	\$11.00	\$220.00
39.	Furnish & Install Dowel Basket Assembly	35	lin.ft.	\$15.00	\$525.00	\$20.00	\$700.00	\$10.00	\$350.00
40.	Furnish Terrace Restoration	60	sq.yds.	\$6.00	\$360.00	\$6.50	\$390.00	\$10.00	\$600.00
41.	Furnish & Install Seed & Fertilizer	60	sq.yds.	\$1.25	\$75.00	\$1.25	\$75.00	\$1.75	\$105.00
42.	Furnish & Install Mulch	60	sq.yds.	\$1.00	\$60.00	\$1.25	\$75.00	\$1.75	\$105.00
43.	Adjust Storm Manhole Casting	8	ea.	\$300.00	\$2,400.00	\$275.00	\$2,200.00	\$350.00	\$2,800.00
44.	Adjust Storm Inlet Casting	12	ea.	\$300.00	\$3,600.00	\$275.00	\$3,300.00	\$350.00	\$4,200.00
45.	Adjust Sanitary MH Casting	4	ea.	\$300.00	\$1,200.00	\$290.00	\$1,160.00	\$350.00	\$1,400.00
46.	Furnish & Install Storm Manhole Casting	2	ea.	\$600.00	\$1,200.00	\$600.00	\$1,200.00	\$675.00	\$1,350.00
47.	Furnish & Install "C" Inlet Casting	2	ea.	\$600.00	\$1,200.00	\$600.00	\$1,200.00	\$675.00	\$1,350.00
48.	Furnish & Install "E" Inlet Casting	2	ea.	\$600.00	\$1,200.00	\$600.00	\$1,200.00	\$725.00	\$1,450.00
49.	Furnish & Install Sanitary Manhole Casting	2	ea.	\$600.00	\$1,200.00	\$600.00	\$1,200.00	\$675.00	\$1,350.00
50.	Rebuild Inlet	5	ea.	\$1,600.00	\$8,000.00	\$1,500.00	\$7,500.00	\$1,500.00	\$7,500.00
51.	Furnish & Install 10", 12" Inlet Lead	40	lin.ft.	\$70.00	\$2,800.00	\$40.00	\$1,600.00	\$30.00	\$1,200.00
52.	Furnish & Install 6" Storm Lateral	30	lin.ft.	\$40.00	\$1,200.00	\$40.00	\$1,200.00	\$20.00	\$600.00
53.	Furnish & Install 4", 6" Storm Riser	5	lin.ft.	\$80.00	\$400.00	\$80.00	\$400.00	\$120.00	\$600.00
54.	Furnish & Maintain Traffic Controls for Arterial/Collector Work in Travel Lane (pp.23 TTC)	8	ea.	\$1,000.00	\$8,000.00	\$900.00	\$7,200.00	\$1,000.00	\$8,000.00
55.	Furnish & Maintain Traffic Controls for Arterial/Collector Half Road Closure (PP.24 TTC)	6	ea.	\$1,200.00	\$7,200.00	\$1,200.00	\$7,200.00	\$1,350.00	\$8,100.00
56.	Furnish Traffic Control for Detour of Arterial/Collector (pp.27 TTC)	2	ea.	\$1,600.00	\$3,200.00	\$2,000.00	\$4,000.00	\$2,000.00	\$4,000.00
				\$549,303.00		\$565,619.30		\$658,658.00	

TOTAL: BASE BID 1 THROUGH 56:



# MEMORANDUM

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TO: Community and Economic Development Committee

FROM: Matt Rehbein, Economic Development Specialist

DATE: May 25, 2016

RE: Letter of Intent for Southpoint Commerce Park

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The City has received a Letter of Intent (attached) from Esler Commercial for an undisclosed Fortune 1000 company to purchase approximately 7.3 acres of land in the Southpoint Commerce Park (map attached).

The proposed purchase price is \$40,000 per acre which is the City's asking price for land in the Southpoint Commerce Park. Most of the other terms are within the normal expectations for a transaction of this type.

Staff Recommendation:

Community and Economic Development Department staff be authorized to accept the basic terms of the Letter of Intent from Esler Commercial dated May 13, 2016 and continue to negotiate terms toward offer to purchase for subject parcel.



5600 W. Grande Market Drive, Suite 100, Appleton, WI 54913  
Phone: 920-731-3800 Fax: 920-731-3817

May 13, 2016

City of Appleton  
Community & Economic Development  
Attn: Matt Rehbein  
100 N. Appleton Street  
Appleton, WI 54911

Re: LETTER OF INTENT for the Purchase and Sale of Real Property Known as "7.3 Acres of the southern half of Lot 20 of Southpoint Commerce Park, Appleton, Wisconsin" (the "Property")

Dear Mr. Rehbein:

Subject to the final negotiation of a definitive purchase agreement (the "Purchase and Sale Agreement"), which definitive Purchase and Sale Agreement will include the terms and conditions contained in this letter and such other terms and conditions as we may agree upon and as would be typical for a similar transaction, Fortune 1000 Company (the "Purchaser"), is willing to purchase the Property, described as 7.3 acres of the southern half of Lot 20 of the Southpoint Commerce Park, from you (the "Seller"). As used herein the word "Property" includes the land, the improvements, easements, agreements, air rights, licenses and other rights and privileges appurtenant to the land, all personal property used in operating the building and improvements, all transferable permits, all contractors, suppliers and manufacturers warranties and guaranties, all surveys and plans and specifications, all third party reports and studies, all fixtures, machinery, equipment and plumbing and electrical systems and Seller's right, title and interest as landlord in all leases.

The terms to be included in the Purchase and Sale Agreement include the following:

1. **Purchase Price.** We are prepared to pay a not-to-exceed price of \$292,000 to buy the Property. The Purchase Price includes commissions to be paid by Seller. The Purchase Price would be paid as follows:

a. Earnest Money Deposit: Twenty Thousand Dollars (\$20,000) payable after the Agreement is signed into escrow with Seller's attorney ("Escrow Agent"). The Earnest Money Deposit shall be refundable in the event that Purchaser terminates the Agreement during the inspection and financing period. The Earnest Money Deposit shall be delivered upon approval of Purchaser's Board of Directors and draft of the Purchase and Sale Agreement.

b. Balance of Purchase Price to be paid by cash or wire transfer at the time of Closing.

2. **Site Development.** Seller shall be responsible for costs associated with the development of the Property including installation of adequate offsite storm water piping and/or storm water management basin and extension of utilities up to the property line. This offer is

contingent upon the community development retention pond being adequate based on the final site design.

3. **Target Closing Date/Possession.**

Closing shall take place on or before ten (10) days after:

- i. Obtaining all Design Review Approvals;
- ii. The completion of the inspection period; and
- iii. A satisfactory due diligence review, which includes approval of Purchaser's Board of Directors.

4. **Inspection Period.** Purchaser shall have a 90-day inspection period to complete all environmental, geotechnical, zoning approval, flood plain, title, and engineering reviews from the time of Purchase and Sale Agreement execution. Purchaser shall investigate during the inspection period any encroachments which may exist due to surrounding property boundaries. Seller will supply to Purchaser all geotechnical logs, environmental reports, wetlands and engineering reports, and title reports in its possession. Purchaser requires the right to extend the approvals period by up to one additional 30-day inspection period if it is unable to complete all due diligence required within the first 90-day inspection period mentioned above.

5. **Title.** At closing marketable and insurable title to the Property shall be conveyed to Purchaser or Purchaser's designee by general warranty deed in fee simple absolute free, clear and unencumbered, subject only to easements of record, the leases to be approved by Purchaser during the Inspection Period and installments of real estate taxes a lien but not yet due and payable. In addition to the deed Seller shall be required to deliver to Purchaser such other instruments and documents as are typical for similar transactions.

6. **Closing Costs.** Seller shall pay the all state and local conveyance fees. Purchaser shall be responsible for recording costs for the deed and other documents that Purchaser requires be recorded.

7. **Real Estate Taxes and Assessments.**

a. Purchaser will assume and agree to pay:

i. All general and special governmental and utility assessments (the "Assessments") becoming a lien against the Property after the Closing; and

ii. So much of the real estate taxes assessed for and first becoming a lien against the Property during the calendar year in which Closing occurs (the "Current Year Taxes") as shall be allocable to Purchaser for proration (based upon the number of days remaining in such calendar year after the Closing).

b. Seller will pay:

i. All Assessments becoming a lien against the Property on or before the Closing;

ii. All delinquent real estate taxes;

iii. Both installments of real estate taxes payable during the calendar year in which Closing occurs;

iv. So much of the Current Year Taxes as shall be allocable to Seller by proration (based upon the number of days in such calendar year prior to and including the Closing). The most current available tax installments shall be used for the purposes of such proration's if the applicable taxes have not been set.

c. Any real estate taxes or Assessments which are not assumed by Purchaser and which are not due and payable, and have not been paid, at the time of Closing shall be allowed to Purchaser as a credit against the Purchase Price at Closing.

8. **Risk of Loss.** Risk of loss to the Property from casualty or by reason of condemnation shall be borne by Seller until Closing.

9. **Condition of Property.** Seller will make typical representations and warranties to Purchaser in the Agreement and at the Closing that there are no claims against Seller and that the Property is in good condition and repair, is free from title claims and liens, that there are no adverse environmental conditions, and that the improvements comply with applicable laws.

10. **Failure to Close.**

a. The Agreement shall provide that if Seller is ready, willing and able to close this transaction and Purchaser is obligated to do so, but fails to close, Seller shall retain the Earnest Money then paid by Seller as liquidated damage for such failure to close and Purchaser shall be relieved of all other liability to Seller of any nature whatsoever.

b. If Purchaser is ready, willing and able to close this transaction and Seller is obligated to do so, but fails to close, then Purchaser, at its option,

i. May elect to enforce the terms hereof by action for specific performance, or

ii. May terminate the Agreement by notice to Seller and receive a full refund of the Earnest Money.

c. Upon termination under the preceding sections 100.a or, 10.b the parties shall have no further rights and obligations hereunder other than those

rights and/or obligations which are expressly stated to survive expiration or termination of the Agreement.

11. **Fixtures.** All fixtures and personal property of Seller that is on the Real Property shall become the property of the Purchaser unless Purchaser requests Seller to remove specific items.

12. **Exclusivity.** Commencing upon the date of Seller's acceptance of this Letter of Intent and continuing for a period of sixty (60) days thereafter, Seller agrees not to market the Property or any portion thereof for sale or lease or enter into any agreement for the sale or lease of the Property or any portion thereof to any other person or entity.

13. **Commissions.** Seller shall be responsible for a commission associated with this transaction equal to 8% of \$292,000.00 payable to Esler Commercial, LTD. at closing.

14. **Purchase & Sale Agreement.** Purchaser's standard Purchase & Sale Agreement to be used.

15. **Confidentiality.** Seller and Purchaser agree not to disclose or discuss with any third party (including real estate brokers and employees, agents and subcontractors of Seller located on or providing services to the Property) the terms of this Letter of Intent or the Purchase and Sale Agreement or provide copies of this Letter of Intent, the Purchase and Sale Agreement or any closing statement for the transaction to any third party, except that disclosure is permitted when and to the extent that disclosure is:

- a. Required by or contemplated by the terms of this Letter of Intent;
- b. Required by any statute, ordinance, rule or regulation or any court order (such as disclosure to the Internal Revenue Service); or
- c. Required in the ordinary course of business and the recipient has been advised of this confidentiality obligations (such as disclosure to an attorney, accountant or lending institution) and agrees to observe and comply with the provisions of this paragraph.

This Letter of Intent shall not create a binding agreement and shall not be construed as a contract for purchase and sale of the Property. It is, however, an expression of certain terms and conditions to be included in the Purchase and Sale Agreement. Upon receipt of a signed copy of this Letter of Intent, Purchaser shall instruct its legal counsel to prepare the Purchase and Sale Agreement incorporating the terms and provisions of this Letter of Intent for Seller's review. Seller and Purchaser shall work diligently and in good faith to enter into the Purchase and Sale Agreement within forty-five (45) days after the acceptance of this letter of intent by Seller. If Purchaser and Seller do not enter into the Purchase and Sale Agreement within thirty (45) days after the acceptance of this letter of intent by Seller, then, except for both parties' obligations of confidentiality under paragraph 13, the parties will be released from their obligations under this Letter of Intent.

If the terms of this Letter of Intent are acceptable, please sign and return it to Andy Esler (Esler Commercial, LTD.) or Kristin Dragon (CBRE, Inc.) by May 20, 2016.



Sincerely,

**Esler Commercial, LTD.**

Andrew Esler  
Vice President

cc: Kristin Dragon, CBRE

AGREED TO BY PURCHASER:

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

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

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

Dated: \_\_\_\_\_, 2016

AGREED TO BY SELLER:

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

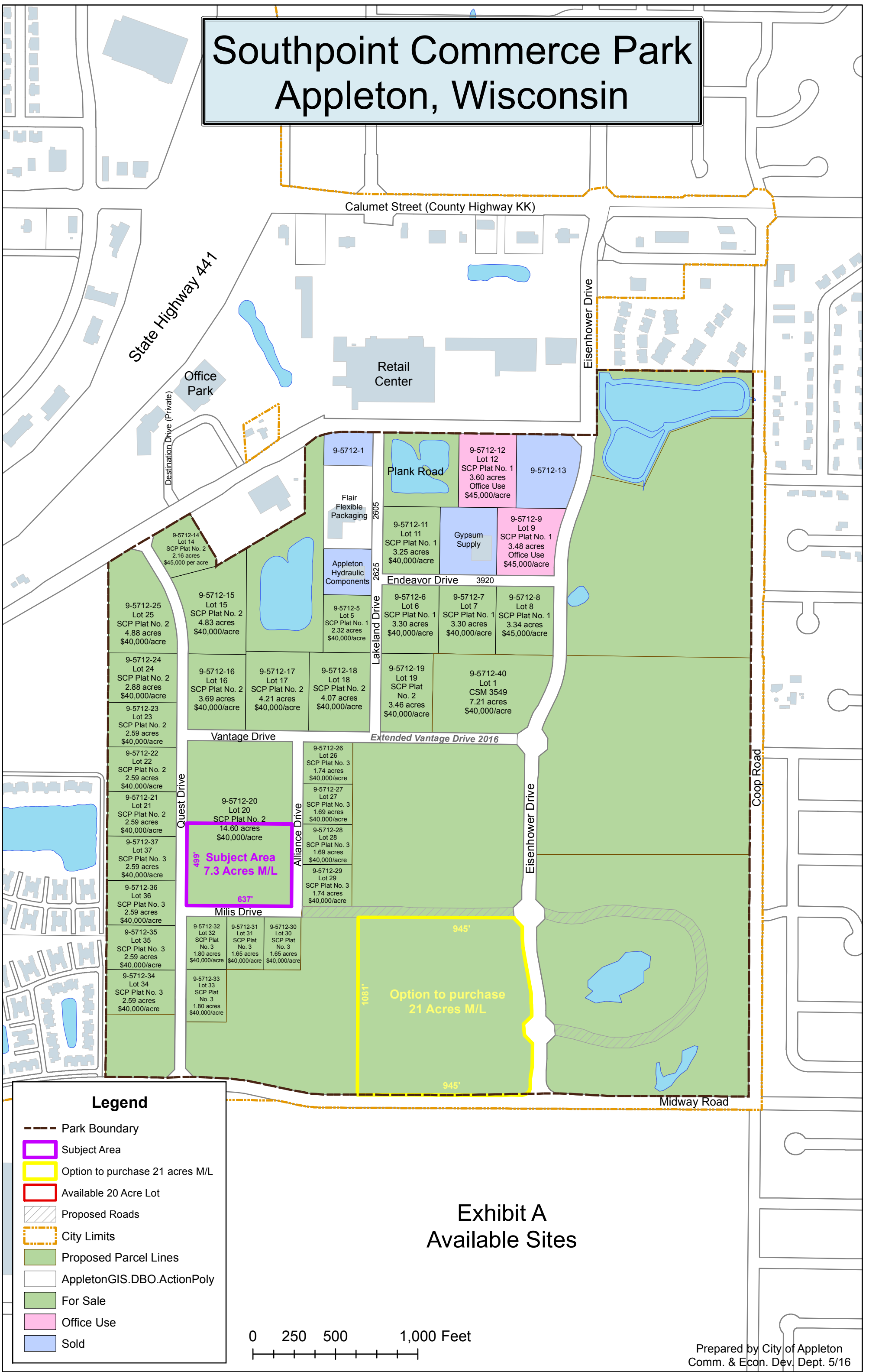
Name: \_\_\_\_\_

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

Dated: \_\_\_\_\_, 2016



# Southpoint Commerce Park Appleton, Wisconsin



## Department of Public Works – Engineering Division

### MEMO

**TO:** Utilities Committee

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

**DATE:** May 18, 2016

**RE:** Approve May 2016 Revisions to Stormwater Utility Credit Policy (attachments).

---

The Department of Public Works is requesting approval of the proposed May 2016 Revised Stormwater Utility Credit Policy (attached).

At the May 9<sup>th</sup>, 2016 Utilities Committee, DPW staff presented a draft revised credit policy for discussion, which included new standards for allowing single- and two-family properties to obtain credits for listed “basic stormwater practices” that improve stormwater runoff quality.

During that discussion, the Utilities Committee requested that staff investigate the following potential revisions to the proposed policy as presented:

1. Increase maximum number of rain barrels eligible for credit from three to four, with a possible corresponding change to the credit amount for each rain barrel.
2. Provide customers a written notice of credit expiration dates on or with their utility bills.

The credit policy has been updated to reflect Item 1, with credits available for up to four rain barrels, at \$20 per barrel.

DPW Staff presented Item 2 to Information Technology and Finance staff for consideration. Staff’s recommendation is as follows:

Finance will soon be updating its billing to use the new Tyler Munis system. Programming the existing system and modifying the current billing format to accommodate an expiration date is not recommended, as the City will likely be transferred to the new system before the three year credit expirations. Once the Tyler Munis system is up and running, staff would like the opportunity to evaluate how the software can accommodate the request. At this time, staff cannot verify the new system will be able to provide a credit expiration date on the bill itself. Therefore, the policy as presented does not include a notification of credit expiration at this time. DPW staff intends to update the Utilities Committee on expiration notices once Information Technology and Finance staff is more familiar with the Tyler Munis system, likely in 2017.

**DEPARTMENT OF PUBLIC WORKS**  
**Engineering Division**  
**100 North Appleton Street**  
**Appleton, WI 54911**  
**(920) 832-6474**  
**FAX (920) 832-6489**

**CITY OF APPLETON**  
**STORMWATER UTILITY CREDIT POLICY**  
**May 2016**

**I. Purpose and Scope**

The purpose of this policy is to provide a credit structure for stormwater utility charges for properties within the City of Appleton. Credit applications must be submitted by the property owner. Credit will only be considered for properties that meet at least one of the following criteria:

Property is a multi-family or non-residential property that meets one or more of the following criteria:

- Property implements onsite stormwater management practices according to the list of eligible practices per Appendix B, Basic Stormwater Practices.
- Property contains one or more approved stormwater practices that provide measurable, maintainable reductions in peak flow rates, flow volumes, and/or pollutant discharges.
- Property discharges some or all of its flow from impervious surfaces directly to the Fox River without such flow entering a stormwater conveyance owned or maintained by the City.

Property is a single-family or two-family residential property that:

- Implements onsite stormwater management practices according to the list of eligible practices per Appendix B, Basic Stormwater Practices.

This policy recognizes that:

- NR 151, containing water quality requirements from the State of Wisconsin, became effective October 1, 2004 and has since been updated.
- The Fox River TMDL, containing water quality requirements from United States Environmental Protection Agency and the State of Wisconsin, became effective March, 2012.
- The State of Wisconsin regulates floodplains through NR 116 and NR 117.
- The City of Appleton is regulated under a WPDES Stormwater Permit per NR 216.
- For some criteria, the City of Appleton Stormwater Management Ordinance exceeds the requirements of the state standards in NR 151 and the Fox River TMDL.

This policy may be reviewed and updated from time to time. Properties receiving a credit prior to adoption of this policy are not subject to re-evaluation of credits, unless site redevelopment causes the property to become subject to the stormwater management ordinance. Under this policy, properties that are not subject to re-evaluation of credits will continue to receive credits based on the policy in place at the time credit was issued.

## **II. Definitions**

Definitions for this policy are as listed in the Appleton Municipal Code Sec. 20-229.

## **III. Credit Structure**

### **1. Multi-Family and Non-Residential Properties**

These properties may be eligible for a credit for implementing Basic Stormwater Practices per Appendix B, as well as for implementing onsite practices that provide quantifiable reductions in stormwater peak flow rates or measureable improvements in runoff quality.

For the purposes of calculating applicable credit rates for practices that do not qualify as Basic Stormwater Practices, the municipal stormwater management services, which are funded through the user fee, are divided into three categories. The listed percentages are the approximate fraction of utility expenditures within each category:

<b>Stormwater Base Fee:</b>	<b>27%</b>
<b>Stormwater Peak Flow Fee:</b>	<b>60%</b>
<b>Stormwater Quality Fee:</b>	<b>13%</b>

There is no credit applicable to the Stormwater Base Fee portion of Utility charges. The Stormwater Base costs are required to conduct the stormwater management programs throughout the City. Such programs include, but are not limited to leaf collection, street cleaning, and utility administration.

Only the costs associated with the Stormwater Peak Flow and Stormwater Quality Fees are eligible for a credit. These costs are associated with the City's efforts to maintain the capacity of the stormwater conveyance system, reduce flooding, and reduce pollution to meet regulations. Properties that demonstrate they are reducing the impacts on the stormwater peak flow and/or stormwater quality components may be eligible for a portion or all of the allowed credits.

### **2. Single Family and Two-Family Properties**

The small scale of single-family and two-family properties renders impractical the accurate calculation of peak flow reduction and water quality improvement using stormwater practices. Therefore the credit for these properties is based upon a fixed amount according to the type of eligible Basic Stormwater Practice used, as listed in Appendix B. As long as a Basic Stormwater Practice meets City required design and operation criteria, the credit for such a practice is not based on performance calculation for peak flow control or runoff quality control.

#### **IV. Credit Criteria for Multi-Family and Non-Residential Properties**

Properties that implement the practices meeting the credit criteria described in this section are potentially eligible for a credit. To be eligible for a credit, the property owner shall comply with all of the following:

- Submit a completed credit application form and review fee per Section VI of this policy.
- For Basic Stormwater Practices, submit the following documentation:
  - Written description of the number, type, and location of each practice.
  - A photograph of each practice installed onsite.
- For other stormwater practices that provide measurable stormwater peak flow and/or runoff quality benefits, submit documentation regarding the design stormwater management function of each practice for which a credit is requested, as described in this section.
- Allow the City of Appleton to enter the property to inspect each practice
- Operate and maintain each practice in such a way that it continues to function per the approved design and, for practices designed to provide measurable benefits, per the approved Operation and Maintenance Plan.

##### **1. Practices That Provide Measureable Benefits That Exceed Peak Flow Control Requirements**

This credit applies to properties that provide privately constructed, owned, and maintained runoff peak flow control practices that are not Basic Stormwater Practices, and which provide measurable benefits according to accepted engineering practices. Properties that implement flow control management practices so as to exceed the City's stormwater management standards may be eligible for a credit. Minimum stormwater management standards for peak flow control are described in the Stormwater Management section of the Appleton Municipal Code, Chapter 20, Article VI, Sec 20-312. If, during site plan or stormwater management plan review, the Department of Public Works imposes requirements that are more restrictive than standard requirement of the Stormwater Management Ordinance, the more restrictive standards shall be considered the minimum requirements for credit purposes. The utility customer must submit documentation demonstrating that a management practice on their property exceeds the peak flow reduction criteria to the Department of Public Works (DPW). The amount of credit will be based on the prorated amount by which the property is exceeding the requirements.

The amount of Stormwater Peak Flow credit will be based on the following criteria:

- a. Post-development flow from all design storms, as defined in Article VI of Chapter 20 of the City's stormwater management ordinance, meet or exceed the minimum requirements.
- b. Property must reduce the peak flow rate of the 10-year design storm below the City required rate. All calculations shall use the 10-year storm as defined in Article VI of Chapter 20. For existing developed properties with no peak flow reduction requirements, the allowable peak flow rate is based on the actual peak flow rate for the developed property prior to installation of peak flow reduction practices.

The credit amount will be based on the percentage the property exceeds the minimum peak flow control requirements for the 10-year design storm. An example of credit calculations is provided in Table 1.

Table 1: Example Stormwater Peak Flow Fee Credit Calculations

Reduce peak flow below the requirement by:	0%	20%	40%	60%	80%	100%
Multiply by 60% (maximum eligible credit for peak flows)	60%	60%	60%	60%	60%	60%
The utility fee credit will be:	0%	12%	24%	36%	48%	60%

To calculate the percentage amount by which Peak Flow is reduced below the requirement, subtract the actual 10-year peak runoff rate from the allowed 10-year peak runoff rate. Then divide the resulting value by the allowed 10-year peak runoff rate.

## 2. Practices That Provide Measureable Benefits Which Exceed Runoff Quality Requirements

This credit applies to properties that provide privately constructed, owned, and maintained runoff quality practices that are not Basic Stormwater Practices, and which provide measurable benefits according to accepted engineering practices and any applicable DNR technical standards. Properties that implement pollution control management practices to reduce stormwater sediment (Total Suspended Solids, or TSS) beyond the requirements of the City's Stormwater Management Ordinance may be eligible for a credit. Minimum stormwater management standards for runoff quality are described in the Stormwater Management section of the Appleton Municipal Code, Chapter 20, Article VI, Sec 20-312. If, during site plan or stormwater management plan review, the Department of Public Works imposes requirements that are more restrictive than standard requirements of the Stormwater Management Ordinance, the more restrictive standards shall be considered the minimum requirements for credit purposes. The utility customer must submit documentation demonstrating the sediment control effectiveness of the management practice on their property to the Department of Public Works (DPW). The amount of credit will be based on the prorated amount as described below.

The amount of Stormwater Quality credit will be based on the following criteria:

- a. For new development and redevelopment properties as defined in the City's stormwater management ordinance:
  - 1) All requirements of the City's stormwater management ordinance must be met.
  - 2) If the stormwater Total Suspended Solids (TSS) reduction practices exceed the minimum requirements, then a credit is applied pro-rated to the level of TSS reduction achieved. An example of credit calculations is provided in Table 2.

Table 2: Example Stormwater Quality Credit Calculations for a New Development Parcel Required to Reduce Sediment by 80%

Parcel reduces TSS by:	80%**	85%	90%	95%	100%
Pro-ratio*	0/20	5/20	10/20	15/20	20/20
Multiply above row by 13% max eligible quality credit	13%	13%	13%	13%	13%
The utility fee credit will be:	0%	3%	6%	10%	13%

\* credit pro-rated based on the percent sediment control remaining after the minimum requirement is met.

\*\* this column does not exceed minimum requirement of City ordinance, thus no stormwater utility credit is applied.

- b. For existing developed properties with no pollution control requirements, the credit will be equal to the pro-ratio multiplied by 13%, where the pro-ratio is equal to the sediment control achieved compared to the property under the pre-management condition. In no case will the credit for this category exceed 13%.

For example: If an existing developed property installs a stormwater pollution management measure that reduces sediment pollution from the property by 20%, the property shall be eligible for a 2.6% credit. ( $20/100 \times 13\%$ )

### 3. Riparian Properties

Properties that discharge stormwater from all or a portion of their property directly into the Fox River, without entering a City of Appleton municipally owned stormwater conveyance system, may be eligible for a credit. The credit amount will be pro-rated based on the percent impervious area of the property that drains directly to the Fox River. Properties located on other creeks, streams and/or ditches, are not eligible for this credit.

For example if a property has 50% of its impervious area draining directly to the Fox River without entering the City's stormwater conveyance system, the eligible credit will be calculated as follows:

Stormwater Base Fee Portion of 27% = 0% (no credit applied)

Stormwater Peak Flow Fee Portion =  $50\% \times 60\% = 30\%$

Stormwater Quality Fee Portion =  $50\% \times 13\% = 6.5\%$

TOTAL CREDIT 36.5%

### 4. Properties that Implement Basic Stormwater Practices

Properties that implement the practices listed in Appendix B, Basic Stormwater Practices are

potentially eligible for a credit. To be eligible for a credit, the property owner shall:

- Submit a credit application per Section VI of this policy.
- Allow the City of Appleton to enter the property to inspect the practice.
- Install and maintain one or more practices according to the listed standards and in such a way that the practice provides a runoff quality benefit typical of such practices.
- Submit a photograph of the practice after installation.

Refer to Appendix B for applicable credits and conditions.

## **V. Credit Criteria for Single-Family and Two-Family Properties**

Properties that implement the practices listed in Appendix B, Basic Stormwater Practices are potentially eligible for a credit. To be eligible for a credit, the property owner shall:

- Submit a credit application per Section VI of this policy.
- Allow the City of Appleton to enter the property to inspect the practice.
- Install and maintain one or more practices according to the listed standards and in such a way that the practice provides a runoff quality benefit typical of such practices.
- Submit a photograph of the practice after installation.

Refer to Appendix B for applicable credits and conditions.

## **VI. Credit Request Submittal Requirements**

The Director of Public Works shall review credit request submittals for compliance with this policy.

### **1. Multi-Family and Non-Residential Property:**

#### **A. Review Fee**

- i. Basic Stormwater Practices. There is no review fee for this category
- ii. Stormwater Practices with Measurable Benefits. Prior to review, the individual requesting the review shall pay a non-refundable review fee of \$200.00.

#### **B. Required Documentation**

- i. Application Form

The applicant shall submit a completed application form to the Department of Public Works, Engineering Division.



ii. Narrative Description, Certification and Supporting Documentation

Applicant shall provide a report including a narrative description, supporting documentation, and certification as described herein.

Narrative description shall describe the amount and type of credit requested, and describe in general the property and the basis for the request.

For non-riparian properties, the applicant shall provide written certification that the stormwater practices that are the subject of the credit have been constructed and are functioning in the manner indicated on the credit request calculations, and are owned and maintained by the property owner.

For practices that are not Basic Stormwater Practices, the applicant shall provide for DPW review and approval any hydrologic/hydraulic studies, plans, computer models, and other supporting documentation required to demonstrate, to the satisfaction of the Director, that the measures taken meet the requirements for the credits requested. A Registered Engineer or Hydrologist, licensed in the State of Wisconsin, must certify supporting plan and calculations.

For riparian properties, the applicant shall provide a site plan (to scale) showing existing elevations, drainage divides, and drainage patterns. The plan shall be stamped by an engineer or surveyor licensed in the state of Wisconsin.

iii. Operations and Maintenance Manual and Agreement

For practices that are not Basic Stormwater Practices, the applicant shall provide a manual for the operation, inspection, and maintenance of each stormwater practice, to ensure that it will continue to function as designed. The applicant shall also sign an Operation and Maintenance Agreement that will be recorded with the appropriate county to ensure continued maintenance of on-site practices. The applicant shall provide records of the inspection and maintenance performed pursuant to the approved Operation and Maintenance Agreement.

2. Single-Family and Two Family Residential Property

A. Review Fee

There is no review fee for this category.

## B. Required Documentation

### i. Application Form

The applicant shall submit a completed application form to the Department of Public Works, Engineering Division.

### ii. Certification and Supporting Documentation

Applicant shall provide the following information with the application form:

- A site plan (to scale, with aerial photo) showing location of on-site stormwater management practice(s) and size of contributing impervious area(s)
- Copy of manufacturer's information (if applicable)
- Plant list and sizing calculations (for rain gardens)

## 3. Approval Process

### A. Director's Review

The Director shall have thirty (30) business days to review credit applications, whereupon the Director may approve the application, deny the application, or provide comments for resubmittal. In the event of a resubmittal request, the thirty-day period referred to above shall begin again once the requested additional information is received.

### B. Appeals

If the Director denies a credit request, the applicant may appeal the decision pursuant to sec. 20-239 of the Appleton Municipal Code. The applicant must file a notice of appeal with the Director no later than fifteen (15) days after receipt of the decision of the 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 credit. As the committee of jurisdiction, the Utilities Committee shall approve, disapprove, or conditionally approve with changes the credit request.

### C. Annual Reevaluation

All credits shall be subject to an annual review for compliance with the terms and conditions of the credit at the time it was granted as well as the criteria of the current policy. Credits may vary or be eliminated over time. It is the responsibility of the billed customer to provide the Director with any and all changes to the conditions of the onsite practices and conditions that may affect the credit rate for the site. Violations of the terms and/or conditions of the credit request may be subject to collection of utility fees retroactive to the date of the violation.

## **VII. Effective Date and Expiration of Credits**

### **A. Effective date of credits.**

- a. Credits for Basic Stormwater Practices will be effective approximately 60 calendar days after they are approved.
- b. All other credits will become effective the date they are approved.

### **B. Expiration of Credits**

- a. Ongoing Multi-Family and Non-Residential credits for Basic Stormwater Practices automatically expire as described in Appendix B. Other stormwater credits do not automatically expire. Credits are subject to cancellation or modification at any time if practices are found not to meet applicable credit standards. Credits are subject to modification based on changes to the credit standards. The applicant is responsible for tracking the date of credit expiration. The City does not provide notification of credit expiration, and any such changes are reflected by the amount billed.
- b. Ongoing Single- and Two-Family credits automatically expire as described in Appendix B. A new credit application must be filed to be eligible for a credit after credit expiration. Subsequent applications are allowed. Credits are subject to cancellation or modification at any time if practices are found not to meet applicable credit standards. Credits are subject to modification based on changes to the credit standards. The applicant is responsible for tracking the date of credit expiration. The City does not provide notification of credit expiration, and any such changes are reflected by the amount billed.

# Appendix A

## Stormwater Utility Credit Application Form

**CITY OF APPLETON**  
**STORMWATER UTILITY CREDIT APPLICATION FORM**

May 2016

**Submit completed application and any necessary attachments to:**

City of Appleton Department of Public Works  
Attn: Engineering Division  
100 N. Appleton Street  
Appleton, WI 54911

Please read the requirements of the City of Appleton Stormwater Utility Credit Policy prior to completing this application. You may contact the Engineering Division at 920-832-6474 if you have any questions.

Property Information	Utility Account #
Property Owner Name:	
Property Address:	
Phone & E-mail:	

**Check all practices for which you are applying for a credit:**

**Residential (Single Family and 2-Family Credits)**

Stormwater Practice (No Application Fee)	Credit Amount
<input type="checkbox"/> Rain Barrel (Min 55 Gal. Capacity) _____ Number of barrels installed \$0 Application Fee	One-Time Credit \$20 per barrel Maximum \$80 Credit per property
<input type="checkbox"/> Rain Garden \$0 Application Fee	Ongoing Credit \$25 per year. Expires after 3 years.
<input type="checkbox"/> Pervious Pavement System \$0 Application Fee	Ongoing Credit \$25 per year. Expires after 3 years.
<input type="checkbox"/> Stormwater Pledge Supporter (must attach completed pledge form) \$0 Application Fee	Ongoing Credit \$25 per year. Expires after 3 years.

**Multi-Family and Non-Residential Credits**

Stormwater Practice/Application Fee	Credit Amount
<input type="checkbox"/> Rain Barrel (Min 55 Gal. Capacity) _____ number of barrels installed \$0 Application Fee	One-Time Credit \$20 per barrel Maximum \$80 Credit per property
<input type="checkbox"/> Rain Garden \$0 Application Fee	Ongoing Credit \$25 per year. Expires after 3 years.
<input type="checkbox"/> Stormwater Peak Flow/Quality Practice must provide calculations \$200 Review Fee Applies	Special, See Credit Policy Section IV
<input type="checkbox"/> Riparian Property must provide drainage map \$200 Review Fee Applies	Special, See Credit Policy Section IV

**Attach the following information to your application (Refer to Stormwater Utility Credit Policy for guidance):**

- (1) Site plan (to scale) showing location of onsite stormwater management practice(s) and size of contributing impervious area(s) (rooftop, driveway, concrete walks/patios).
- (2) Copy of manufacturer's information (if applicable)
- (3) Plant list and sizing calculations (for rain gardens)
- (4) For Multi-Family and Nonresidential properties applying for Peak Flow Reduction credit, applicant must submit documentation for function of practice(s) per Credit Policy.
- (5) For Multi-Family and Nonresidential properties applying for Runoff Quality credit, applicant must submit documentation for function of practice(s) per Credit Policy.

**Property Owner Certification**

By signing this application, I certify that I am the owner or authorized representative of the owner and have read this application and understand the terms and conditions of Appleton's Stormwater Utility Credit Program. I certify that this application and additional materials accurately describe stormwater management practices on the property identified on this application. I hereby grant the City permission to enter this property for the sole purpose of conducting site inspections of the stormwater management practices on my property.

Property Owner Signature	Printed Name	Date
Reviewed By	Printed Name/Title	Date
Approved By	Printed Name/Title	Date**

\*\*For single- and two-family properties, this credit approval is valid up to three years from date of approval. After this period, property owner must submit a new application to remain eligible for a credit.

**Terms and Conditions**

The design of the on-site stormwater management practice must be approved by the City of Appleton Public Works Department before a credit will be issued. **Applicants may submit this application form along with the required supporting documents for review prior to the installation of any on-site stormwater management practice, but credit will only be applied once practices are in-place.** The City may require the applicant to have the design certified and stamped by a registered Wisconsin Professional Engineer qualified in stormwater management design (see policy for further information).

The City grants stormwater utility credits to the property owner. If approved, the credit will be deducted from the City stormwater bill for the utility account provided on this application. The City may revoke the discount, require payment of previous discounts, and impose civil penalties if any of the following conditions occur:

- (1) the City finds that this application is inaccurate;
- (2) the private stormwater management system is unsafe or illegal;
- (3) the property does not comply with City building, plumbing, or stormwater requirements; or
- (4) the practice is not operated and maintained as required;
- (5) the City is denied an opportunity to conduct a site inspection of the stormwater systems.

The Director of Public Works or their designee may change the amount of the stormwater credit in response to changes in the stormwater utility rates, changes to the Credit Policy, or changes to the property.

# Appendix B

## Basic Stormwater Practices

1. Rain Barrel (One-Time \$20 Credit per Barrel, Maximum \$80 per Property)

This credit applies to properties that provide one or more onsite rain barrels to collect and contain rooftop runoff. Each rain barrel shall have a minimum storage capacity of 55 gallons and shall receive runoff from at least one-quarter of the roof surface of the residence in question.

There are many functional rain barrel configurations. Unless otherwise allowed by City of Appleton, rain barrels shall follow the guidance provided in University of Wisconsin Garden Facts: Rain Barrels, Revised February 5, 2008 (XHT1157).

[http://labs.russell.wisc.edu/pddc/files/Fact\\_Sheets/LC\\_PDF/Rain\\_Barrels.pdf](http://labs.russell.wisc.edu/pddc/files/Fact_Sheets/LC_PDF/Rain_Barrels.pdf)

2. Rain Garden (Ongoing \$25 Annual Credit)

This credit applies to properties that provide one or more onsite rain gardens to collect runoff from impervious onsite sources. Such practices shall receive runoff from at least one quarter of the impervious surfaces on the site.

Rain Gardens shall be constructed and maintained according to WDNR Publication PUB-WI-776 2003 (UWEX Publication GWQ037) "Rain Gardens a How To Manual for Homeowners".

<http://dnr.wi.gov/topic/shorelandzoning/documents/rgmanual.pdf>

This credit automatically expires after 3 years, at which time a new credit application may be submitted. The applicant is responsible for tracking the date of credit expiration. The City does not provide special notification of credit expiration, and any such changes are reflected by the amount billed.

3. Pervious Pavement System (Ongoing \$25 Annual Credit)

This credit applies to single- and two-family properties that provide a minimum of 200 square feet of pervious pavement system driveway on private property, constructed and maintained according to manufacturer's guidelines such that infiltration of runoff occurs.

Multi-family and non-residential properties that implement a Pervious Pavement System are not eligible for a credit as a Basic Stormwater Practice. Such properties shall follow the requirements for Peak Flow Reduction and/or Runoff Quality practices in Section IV.

The pervious pavement system shall not violate standards in City Ordinance Sec 19-91 "Parking in front and side yard in residential district; parking on terraces."

This credit automatically expires after 3 years, at which time a new credit application may be submitted. The applicant is responsible for tracking the date of credit expiration. The City does not provide special notification of credit expiration, and any such changes are reflected by the amount billed.

4. Stormwater Supporter Pledge (Ongoing \$10 Annual Credit)

The City of Appleton encourages "good housekeeping" stormwater practices by homeowners. This credit applies to single- and two-family property owners who sign and submit the Appleton Stormwater Supporter Pledge Form and then implement pledge practices over the duration of the credit. For single- and two-family properties, this credit automatically expires after 3 years, at which time a new credit application may be submitted. The applicant is responsible for tracking the date of credit expiration. The City does not provide special notification of credit expiration, and any such changes are reflected by the amount billed.



# Appendix C

## Appleton Stormwater Supporter Pledge Form

# Appleton Stormwater Supporter Pledge Form

## Submit completed pledge form to:

City of Appleton  
Department of Public Works  
Attn: Director of Public Works  
100 N. Appleton Street  
Appleton, WI 54911

Please contact the Department of Public Works at 920-832-6474 if you have any questions on this pledge form.

<b>Property Information</b>	Utility Account #:
Property Owner Name:	
Property Address:	
Phone & E-mail:	

## Property Owner Certification

By signing this pledge form, I certify that I am the owner or authorized representative of the owner of the subject property listed above. I certify that I am pledging that everyone on this subject property will follow 30 of the total 47 activities as checked off on the following pages. I hereby grant the City permission to enter this property for the sole purpose of verifying these activities on my property.

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Property Owner Signature	Printed Name	Date
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Reviewed By	Printed Name/Title	Date
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## **Welcome to the Appleton Stormwater Supporter Program!**

The Appleton Stormwater Supporter program is a community education and action project that helps local residents and businesses do their part for clean water. Take a moment to look through this application form and learn how you can help prevent pollution to Appleton's waters. You may find you have already incorporated many water-friendly practices into your daily life. We hope you will find new ideas to try as well.

To be a "Appleton Stormwater Supporter", fill out this form and submit it to the Appleton Public Works Department. We want to know what you are already doing to protect the watershed and which new things you will try. Applicants that can demonstrate they are doing at least 30 of the 47 activities noted to protect Appleton's waters are eligible for a credit on their stormwater utility bill.

Join your neighbors in pledging to protect our watersheds. Remember, kids can help too (see <http://www.renewourwaters.org/wp-content/uploads/2015/07/Kids-can-help-too.pdf> for more info). Together we can make a difference!

The Appleton Stormwater Supporter program is sponsored by the City of Appleton's Stormwater Utility.

### **1. Lawn Care**

Everyone loves a green, healthy lawn. There are many ways to keep your lawn beautiful without applying harmful chemicals. The right amount of water and proper mowing are important to keep your lawn in top shape. Lawns consisting of short turf grass need no more than one inch of water every week. Too much water leads to runoff and an unhealthy lawn. Consider letting your lawn go brown and dormant during the summer dry season – it will green up when the rains return. A low growing clover (ie: Dwarf White 'Dutch' Clover – *Trifolium repens*) interseeded with your lawn will help keep it green during drought conditions and help capture nitrogen. Use 2-5 oz. per 1000 ft<sup>2</sup>. If you have a shady area that you do not walk on much, 'Low-Mow' or 'No-Mow' grasses such as a mix of fine fescues (*Festuca ovina*, *Festuca longifolia*, *Festuca rubra*, etc.) may also be worth considering to reduce the need to mow your lawn.

Grass clippings fertilize the lawn, help hold moisture, and improve soil organic matter content to reduce the need for chemical fertilizers that can end up in our groundwater. Instead of bagging your clippings, leave them on the lawn, add them to your compost pile, or use them as mulch in garden beds. Grass clippings will not cause thatch build-up. Thatch is mostly roots and stems, not grass blades.

Consider using slow release natural fertilizers such as compost or corn gluten meal. Conventional fertilizers are petroleum-based products that have a high salt content. They also tend to be quick release, creating a greater risk of leaching into streams and groundwater. Grass takes up fertilizer best in late fall.

Consider installing one or more rain barrels to collect roof runoff that would be lost. Catching rainwater allows you to water your garden and plants during dry periods, saving you money on your water bill. See <http://www.renewourwaters.org/wp-content/uploads/2015/07/Rain-Barrel.pdf>.

Did you know a regular gas-powered mower emits pollutants into the air at over ten times the rate of the average car? When it comes time to buy a new mower, think about

getting a mulching, electric mower – they are quiet and will finely chop your clippings. Better yet, use a hand-powered reel mower, which gives your grass the healthiest cut, has the least impact on the environment, and is great exercise too! For more information, check out <http://www.renewourwaters.org/wp-content/uploads/2015/07/The-Perfect-Lawn.pdf> and <http://www.renewourwaters.org/wp-content/uploads/2015/07/The-Perfect-Landscape.pdf> for more information.

I pledge to:

	a. Mow with a non-power or electric mower to reduce fossil fuel consumption, noise, air pollution, and run-off.
	b. Leave grass clippings on the lawn and sweep them from sidewalk, driveway, and street areas back into the lawn.
	c. Compost any collected grass clippings and other yard waste. Check <a href="http://clean-water.uwex.edu/pubs/pdf/managlt.pdf">http://clean-water.uwex.edu/pubs/pdf/managlt.pdf</a> for composting information.
	d. Obtain a soil test on my lawn before selecting a chemical fertilizer and sweep up any fertilizer that lands on the driveway, sidewalk, or street
	e. Use natural lawn fertilizers such as compost or corn gluten meal.
	f. Reduce lawn size and enhance the beauty of my yard by installing a rain garden with native vegetation. Many native plants require less water and maintenance than grass and provide better stormwater capabilities as well as habitat for native insects and animals. Check <a href="http://dnr.wi.gov/topic/shorelandzoning/documents/rgmanual.pdf">http://dnr.wi.gov/topic/shorelandzoning/documents/rgmanual.pdf</a> for information on rain gardens.

## 2. Weeds and Pests

While they may seem to be a great solution to weed and pest problems, fertilizers, insecticides, fungicides and herbicides (collectively called pesticides), often provide a short-term solution with long-term consequences. The suffix “-cide” means “to kill.” Insecticides kill insects, herbicides kill plants and fungicides kill fungus species. Understanding the nutritional and environmental needs of your lawn and garden will help you maintain them without chemicals. Most diseases and insects attack plants that are already stressed by poor growing conditions. For example, plants that thrive on sunny, sandy soil are likely to be susceptible to molds and other diseases when planted in shady, moist areas. Healthy plants well suited to their environment are the best prevention against pest and weed damage.

Avoid “weed and feed” products that spread chemicals over a large area instead of targeting specific weeds. These products also apply a heavy dose of quick-release fertilizer that your lawn oftentimes doesn’t need. All pesticides can be harmful to the health of your family and pets by increasing exposure to toxic chemicals. Pesticides can also kill earthworms and other soil organisms that are beneficial to your lawn.

A healthy, fluffy soil high in organic matter is the best prevention for insect and disease problems. Regular soil aeration helps create a good environment for beneficial microbes and earthworms. Core aerate your lawn once a year in the fall or early spring. Then overseed to create a dense lawn that shades out weeds. Corn gluten meal is a natural product that fertilizes lawns and prevents weed seedlings from growing.

Check <http://clean-water.uwex.edu/pubs/> for more information on yard and garden care recommendations.

I pledge to:

	a. Accept a few weeds, even clover which adds nitrogen to the soil.
	b. Target invasive and/or noxious weeds with hand-weeding or spot spraying.
	c. Avoid conventional “weed and feed” products and replace with corn gluten meal if necessary.
	d. Re-seed thin lawn areas to crowd out weeds.
	e. Read herbicide and pesticide labels and follow application directions. Never apply more than the recommended amount.
	f. Pick harmful insects off plants or spray them off with water.
	g. Keep pesticides from leaving my property via storm runoff.

### 3. Sanitary Sewer Savvy

Appleton’s storm sewer system is separate from its sanitary sewer (wastewater) system. Well-maintained private sewer systems can provide years of reliable service. Poor housekeeping practices can affect the performance and longevity of private and public sanitary sewer systems. Poor housekeeping practices can also place a greater burden on Appleton’s Wastewater Treatment Plant. Chemical drain cleaners, solvents, and some cleaning products can kill beneficial bacteria that make sanitary sewage treatment systems work. To keep wastewater systems healthy, try biodegradable cleaning products and do not flush baby wipes or cleaning wipes down your drains. Avoid pouring fats, oils, and grease (FOG) down the drain-- instead pour it into a container after it has cooled, secure the lid and put it in the trash. Check your basement plumbing to make sure your sump pump isn’t connected to or discharging into your sanitary sewer. Inspect your floor drains to confirm there are no drain tiles connected to them. Drain tile piping should discharge to a sump pit and then to the outside of the building. Never dump unused medicine or hazardous products down the drain; never dump motor oil or other auto fluids down any sanitary drain.

See <http://www.recyclemoreoutagamie.org/what-do-i-do-with/> for more information on disposing of special waste such as household hazardous waste.

I pledge to:

	a. Use biodegradable soaps and alternatives to hazardous cleaning compounds.
	b. Never put refuse down the drain or in toilets. Oil, grease, plastics, paper towels, wipes and cigarettes can clog the sanitary sewer system.
	c. Never flush unused medications down the toilet. Instead, take meds to an approved medication drop-off. See <a href="http://www.recyclemoreoutagamie.org/wp-content/uploads/2015/12/pill-dropoff-landing-page-Rev1.pdf">http://www.recyclemoreoutagamie.org/wp-content/uploads/2015/12/pill-dropoff-landing-page-Rev1.pdf</a> for medication drop-off info.
	d. Verify that no basement floor drains are connected to my storm lateral, and that my sump pump and foundation drain tiles are not discharging into my sanitary lateral.

	e. Dispose of dirty wash water from carpet cleaning into a sanitary drain in my house, never into a storm drain. See <a href="http://www.renewourwaters.org/wp-content/uploads/2015/07/carpet-cleaning.pdf">http://www.renewourwaters.org/wp-content/uploads/2015/07/carpet-cleaning.pdf</a>
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#### 4. In the Home: Tips on Toxics

Many household products contain hazardous ingredients. If improperly handled, they may end up in our local streams, wetlands, marshes, lakes, or groundwater. Small amounts of toxins from many homes can build up and cause big problems. When choosing a product, take a moment to read the label. Key words can alert us to the hazardous nature of products. “Danger” “Caution” and “Warning” signify products that are potentially dangerous to the environment and animals, including humans. If you choose to use a hazardous product, use the least toxic substance, buy only what you need, and use it up or dispose of it properly. For more information, see <http://www.renewourwaters.org/wp-content/uploads/2015/07/Household-Hazardous-Waste.pdf> . For disposal of hazardous products, such as household cleaners, pesticides, oil paints, and solvents, visit <http://www.recyclemoreoutagamie.org/what-do-i-do-with/> for more information.

I pledge to:

	a. Use all-purpose cleaner made of 1 cup of vinegar in a pail of water.
	b. Use bathtub/sink cleaner – sprinkle baking soda, scrub, and rinse.
	c. Use drain cleaner – pour ½ cup of borax in drain followed by 2 cups of boiling water.
	d. Use phosphate-free laundry soaps.
	e. Use oven cleaner – mix 2 teaspoons borax and 2 tablespoons liquid soap in a spray bottle of warm water. Spray on and clean after 20 minutes.
	f. Use toilet cleaner – scrub with a solution of ½ cup borax in 1-gallon water.
	g. Use window cleaner – mix 1 part vinegar to every 4 parts water.
	h. Read labels when purchasing household cleaning products and dispose of unused products as directed.

#### 5. Pets and Animals

Animal waste is a serious water quality problem that is often overlooked. While there have always been animals, it was not until humans and their pets and farm animals concentrated populations along waterways that animal waste became a real problem. Waste from dogs, cats, horses, and waterfowl may contain disease-causing organisms that are harmful to both humans and animals. Animal waste also contains nutrients that encourage weed and algae growth in streams and lakes. Never put animal waste in a street inlet.

Did you know that dogs are not the only problem? Cat waste is also a significant contributor to water quality problems in urban watersheds. Encourage your cat to use a litter box inside and out. Keep it clean so that the cat will prefer it to the garden. Dispose of the waste in the trash.

I pledge to:

	a. Carry a bag and clean up after my pet when out walking and in the yard. I will either put it in a plastic bag in the refuse or give it a flush.
	b. Encourage my cat to use a litter box by keeping it clean. I'll dispose of the waste in the refuse rather than the yard or garden.
	c. Never feed ducks and geese. They will be healthier without my breadcrumbs and will not be encouraged to concentrate in one area where their waste would also be concentrated.

Check <http://www.renewourwaters.org/wp-content/uploads/2015/04/Pet-Waste.pdf> for more information on protecting our waters from pet waste.

## 6. On the Road

Automobiles are one of the largest sources of water pollution. Cars leak oil, antifreeze, and other fluids that are washed into waterways. Exhaust and brake systems also release chemicals, particulates, metals, and other compounds into the air and onto the ground. When these products get into streams or wetlands they are harmful to plants, fish, wildlife, and humans.

So each time you get in the car, remember the impacts and consider an alternative to driving. Driving less often and owning an efficient and well maintained car saves money and resources and helps protect the environment. For more information, see <http://www.renewourwaters.org/wp-content/uploads/2015/07/Car.pdf>.

I pledge to:

	a. Wash cars at a commercial car wash where wastewater is treated and recycled. If washed at home, cars will be washed on grass or permeable pavement with biodegradable soap.
	b. Maintain cars with regular tune-ups and fix fluid leaks. Clean up any leaks that accumulate on surfaces as soon as possible.
	c. Use ground cloths and/or drip pans under the car when working on it at home.
	d. Properly dispose of used antifreeze by taking it to a local auto service center that will accept it, or to the Brown County Hazardous Waste Facility. You can also use the Outagamie County Hazardous Waste Collection Program. See <a href="http://www.recyclemoreoutagamie.org/what-do-i-do-with/">http://www.recyclemoreoutagamie.org/what-do-i-do-with/</a> for the latest schedule.
	e. Properly dispose of used motor oil by taking it to an approved drop-off. See <a href="http://www.recyclemoreoutagamie.org/what-do-i-do-with/#topic-Waste-Oil-Oil-Filters">http://www.recyclemoreoutagamie.org/what-do-i-do-with/#topic-Waste-Oil-Oil-Filters</a>
	f. Reduce the number of car trips I take by consolidating errands, carpooling, walking, using public transportation, or riding my bike.
	g. Consider purchasing a more fuel efficient vehicle, or other method of transportation, when it's time to replace my current vehicle(s).

## 7. Runoff and Stormwater

In the natural world, soil acts like a sponge, filtering out impurities and slowly releasing water from runoff into the groundwater and adjacent surface waters. Hard surfaces such as roadways, parking lots, and rooftops increase runoff that contributes to flooding and water pollution. Porous surfaces, such as natural landscapes, and pervious pavement, slowly absorb pollutants and reduce runoff. Buffers along the banks of streams and water bodies filter sediments and other pollutants from runoff.

Appleton storm sewers and roadside ditches do not drain to the wastewater treatment plant; they carry runoff, along with any pollutants, directly to area streams and the Fox River. The combination of cars, homes, people, and animals in the watershed makes pollution from stormwater a serious threat to water quality.

I pledge to:

	a. Minimize or reduce paved or non-porous surfaces when planning to build or remodel.
	b. Use paving alternatives such as spaced paving stones, paver bricks, and paver blocks.
	c. Position rain gutters so they drain rainwater onto grass or garden beds and away from hard surfaces such as asphalt or concrete.

Appleton is a member of the Northeast Stormwater Consortuim (NEWSC). Check out the NEWSC “Renew our Waters” website at <http://www.renewourwaters.org/> for more information.

## 8. Urban Forestry

According to the USDA Forest Service, planting trees improves water quality and reduces runoff and erosion. During rain events, trees capture and hold water in their canopy and then release it later into the atmosphere by evapotranspiration. Where rain falls on paved surfaces, a much greater amount of runoff is generated compared to runoff from the same storm falling over a forested area. The large volumes of water from impervious surfaces are swiftly carried to our local streams, lakes, wetlands and rivers and can cause flooding and erosion, and wash away important animal habitats. In addition, tree roots and leaf litter create soil conditions that promote the infiltration of rainwater into the soil. This helps to replenish our groundwater supply and maintain streamflow during dry periods. Visit <http://www.arboday.org/trees/stormwater.cfm> to get a better idea of how a city changes when more trees are present.

The benefits of trees are more than just reducing stormwater runoff. Trees around your home can increase its value by improving curb appeal. In the summer they provide shade (and save you money on air conditioning bills) and in winter help by providing wind breaks to help lower your heating costs. Trees remove carbon dioxide (CO<sub>2</sub>) from the atmosphere and release oxygen, and they provide a habitat for birds and other small creatures. By properly maintaining existing trees and planting new ones, we both protect our streams and enjoy all of the other benefits that these plants have to offer.

For more information about planting trees in urban areas, visit <http://www.forestsforwatersheds.org/storage/Part3ForestryManual.pdf> to learn how to plant trees. Most established trees and shrubs in our area should never need fertilization. In particular, where trees are surrounded by fertilized turf, they very likely receive adequate nutrients.



I pledge to:

	a. Minimize removal of trees.
	b. Preserve established trees, plant new trees when possible, and replace any established trees that are cut down.
	c. Plant new trees that encourage diversity and site suitability. Select tree species that are appropriate for the climate and site conditions, including soils and sun exposure. Visit <a href="http://www.arboday.org/shopping/trees/treeWizard/intro.cfm">http://www.arboday.org/shopping/trees/treeWizard/intro.cfm</a> to find a tree that's right for you.
	d. Mulch my leaves into my lawn, or compost them for use in the spring. See <a href="http://www.renewourwaters.org/wp-content/uploads/2015/07/Leaf-Collection.pdf">http://www.renewourwaters.org/wp-content/uploads/2015/07/Leaf-Collection.pdf</a> for more info.
	e. Preserve and improve the soil quality around any trees. Soil should be accessible to air, water and nutrients. Minimize soil compaction, displacement, and erosion.
	f. Not over fertilize or over irrigate trees or lawns.

## 9. Ice and Snow

Winter is a fact of life in northeast Wisconsin. Managing ice and snow properly requires being aware of both safety and water quality. Shoveling frequently during and after snow storms, and using only as much salt as necessary will improve both safety and water quality. See <http://www.renewourwaters.org/wp-content/uploads/2015/07/Ice-and-Snow-Control.pdf> for more information.

I pledge to:

	a. Limit the amount of salt I apply to my sidewalk and driveway to the amount needed for safety, and not use it as a substitute for shoveling.
	b. Shovel during and immediately after snow storms to reduce snow and ice accumulation.

## Sec. 24-1. Authority.

(a) This ordinance is adopted under the authority granted by §62.234, Wis. Stats. This ordinance supersedes all provisions of any ordinance previously enacted under §62.23, Wis. Stats., that relates to erosion and sediment control. Except as otherwise specified in §62.234 Wis. Stats., §62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(b) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City of Appleton.

(c) The City of Appleton hereby designates the Director of Public Works or his/her designee as the administering authority to enforce the provisions of this ordinance.

(d) The requirements of this ordinance do not preempt more stringent erosion and sediment control requirements that may be imposed by any ~~other~~ authority of the following.

(1) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under ss. 281.16 and 283.33, Wis. Stats.

(2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

(Ord 180-04, §1, 1-1-05)

## Sec. 24-2. Purpose.

The City of Appleton acknowledges that runoff from land disturbing construction activity and improper land management carries sediment and other pollutants to the waters of the state.

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing activity to waters of the state within the City of Appleton.

It is also the purpose of this ordinance to meet the performance standards in subchapters III and IV of Ch.

NR 151, Wis. Adm. Code and to meet the requirements for construction site ~~erosion-pollutant control~~ in the ~~Phase II National Pollutant Discharge Elimination System (NPDES) General Permit to Discharge under the Wisconsin Pollutant Discharge Elimination System WPDES Permit No. WI S050075-2~~ administered by the ~~Federal Environmental Protection Agency (EPA)~~ Wisconsin Department of Natural Resources (WDNR).

(Ord 180-04, §1, 1-1-05)

## Secs. 24-3 – 24-9. Reserved.

## Sec. 24-10. Applicability and jurisdiction.

### (a) *Applicability.*

- (1) This ordinance applies to all land disturbing activities within the City of Appleton except as provided under sub. (3).
- (2) Land disturbing activities meeting any one of the following are required to prepare a plan and obtain a permit.
  - a. Building on lots in subdivisions, certified survey maps or unplatted lands.
  - b. Land disturbing activities involving grading, removal of protective ground cover or vegetation, excavation, land filling, scraping or other land disturbing activity affecting a surface of two thousand (2,000) square feet or more.
  - c. Land disturbing activities involving excavation or filling or a combination of excavating and filling affecting two hundred (200) cubic yards or more of soil, dirt, sand or other excavation or fill material.
  - d. Land disturbing activities involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.
  - e. Land disturbing activities involving the laying, repairing, replacing or enlarging of an underground pipe, wire, cable or facility for a distance of three hundred (300) feet or more.
  - f. Land disturbing activities within protective areas as defined in City of

Appleton Municipal Code Chapter 20-  
312(f).

- g. Routine ditch maintenance for a continuous distance of one hundred (100) feet or more.
  - h. Notwithstanding the previously listed applicability requirements, this ordinance applies to any sites which, in the opinion of the City of Appleton, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property or public safety.
- (3) This ordinance does not apply to the following:

a. Land disturbing construction activity that includes the construction of one- (1-) and two- (2-) family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one (1) acre of disturbance. These construction sites are regulated by the Wisconsin Department of Safety and Professional Services under s. SPS 321.125 Wis. Adm. Code.

~~a. Land disturbing activity that includes the construction of residential buildings pursuant to Wis. Adm. Code Chapters 20 through 25.~~

- b. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under Chapter 40, Code of Federal Regulations, part 122, for land disturbing activity.
- c. Nonpoint discharges from agricultural facilities and practices.
- d. Nonpoint discharges from silviculture activities.
- e. Activities conducted by a state agency, as defined under §227.01 (1), Wis. Stats., but also including the office of

district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under §281.33 (2), Wis. Stats.

(b) ***Jurisdiction.***

- (1) This ordinance applies to land disturbing activities located within the boundaries of the City of Appleton.

- (2) ***County and Town Ordinances.*** This ordinance supercedes any county or town erosion and sediment control ordinance for lands annexed to the City after the effective date of the county's or town's ordinance, except when the county's or town's ordinance is more restrictive than this ordinance; then the more restrictive provisions set forth in the county or town ordinance shall become part of this ordinance and apply to the annexed lands. In such cases, the City may grant a variance from the more restrictive requirements provided that the criteria for a variance as set forth in the county ordinance is met.

- (3) ***Waivers.*** Requests to waive the erosion and sediment control requirements, or a portion thereof, shall be submitted to the City of Appleton, in writing, with the application and fee, for review. Written waivers may be granted administratively by the City for erosion and sediment control requirements that are required by the City ~~(but not to those items required by the State of Wisconsin)~~ if it is demonstrated to the satisfaction of the City that it is reasonable to expect that the objectives of this ordinance will be met without an erosion and sediment control plan or portion thereof.

- (4) ***Applicability of maximum extent practicable.*** Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City of Appleton's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost

effectiveness, geographic features, and other completing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

(Ord 180-04, §1, 1-1-05; Ord 181-11, §1, 1-1-12)

**Secs. 24-11 – 24-14. Reserved.**

**Sec. 24-15. Definitions.**

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Administering authority** means ~~a City of Appleton employee~~the Director of Public Works, or a designee,~~empowered under §62.234, Wis. Stats., to administer this ordinance.~~

**Agricultural facilities and practices** has the meaning in §281.16(1), Wis. Stats.

**Average annual rainfall** means a calendar year of precipitation, excluding snow, which is considered typical. An average annual rainfall for Green Bay, 1969 (March 29 - November 25) is applicable for the City of Appleton.

**Best management practice** or **BMP** means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff.

**Business day** means a day the offices of the City of Appleton ~~is~~are routinely and customarily open for business.

**Cease and desist order** means a court-issued order to halt land disturbing ~~construction~~ activity that is being conducted without the required permit or not in conformance with an existing permit.

**City** means the City of Appleton.

**Common plan of development or sale** means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one (1) plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

**Construction site** means an area upon which one (1) or more land disturbing construction activities occur,

including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one (1) common plan of development plan.

**Design storm** means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall. Rainfall amounts for 24-hour design rainfall events in Appleton are: 100-year, 5.50 inches; 10-year, 3.51 inches; 5-year, 3.01 inches; 2-year, 2.45 inches, and 1-year 2.14 inches. The distribution shall be NOAA Atlas 14 MSE4.

**Erosion** means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

**Erosion and sediment control plan** means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

**Final stabilization** means that all land disturbing ~~construction~~ activities at the ~~construction~~ site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least seventy percent (70%) of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

**Land disturbing activity** means any man-made alteration resulting in a change in the topography, existing vegetative or non-vegetative soil cover, or drainage pattern, that may result in runoff and lead to an increase in soil erosion and movement of sediment. Land disturbing activities include, but are not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, an unstable pipe outfall, or an unstable slope.

**Landowner** means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of stormwater BMPs on the property.

**Maximum extent practicable** means the highest level of performance that is achievable, but is not equivalent to a performance standard, taking into account the best available technology, cost effectiveness and other competing issues such as human welfare, endangered and threatened resources, historic properties, and geographic features, pursuant to Sec. 20-10(b)(4) of this code.

~~MEP or maximum extent practicable means a level of implementing best management practices to achieve a performance standard specified in this chapter that takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.~~

**Performance standard** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

**Permit** means a written authorization made by the City of Appleton to the applicant to conduct land disturbing activity.

**Pollutant** has the meaning given in §283.01(13), Wis. Stats.

**Pollution** has the meaning given in §281.01(10), Wis. Stats.

**Responsible party** means any ~~entity person~~ holding fee title to the property or ~~other entity~~ performing services to meet the ~~performance standards requirements~~ of this ordinance through a contract or other agreement.

**Runoff** means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

**Performance security** means cash, or an irrevocable letter of credit submitted to the City of Appleton by the responsible party to assure that requirements of the ordinance are carried out in compliance with the approved erosion and sediment control plan and to recover any costs incurred by the City for designing, engineering, preparation, checking and review of plans and specifications, regulations and ordinances, and legal, administrative and fiscal work undertaken to assure and implement such compliance.

**Permit application fee** means a sum of money paid to the City of Appleton by the responsible party for the purpose of recouping expenses incurred by the City in administering the permit.

**Sediment** means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

**Silviculture activity** means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest

and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

**Site** means the entire area included in the legal description of the land on which the land disturbing ~~construction~~ activity is proposed in the permit application or has occurred.

**Stop work order** means an order issued by the City of Appleton, which requires that all construction activity on the site be stopped.

~~Storm conveyance system means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, natural or constructed channels, or storm drains, which meets any of the following criteria:~~

~~(a) Is designed or used for collecting water or conveying runoff;~~

~~(b) Is not part of a combined sewer system;~~

~~(c) Discharges directly or indirectly to waters of the state;~~

~~(d) Discharges directly or indirectly to a post-construction stormwater treatment device or system.~~

**Stormwater conveyance system** means any method employed to carry stormwater runoff within and from a land development or redevelopment activity to the waters of the state. Examples of methods include: swales, channels and storm sewers.

(Ord 182-11, §1, 1-1-12)

**Technical standard** means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

**Transportation facility** means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Wis. Stats. Transportation facility does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.

**Waters of the state** has the meaning in §283.01(20), Wis. Stat. means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural



~~or artificial, public or private, within Wisconsin or its jurisdiction.~~  
(Ord 180-04, §1, 1-1-05)

**Secs. 24-16 – 24-19. Reserved.**

**Sec. 24-20. Technical standards.**

(a) *Design criteria, standards and specifications.*

All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

- (1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of Chapter NR 151, Wis. Adm. Code.

~~(2) For this ordinance, average annual basis is calculated using the appropriate average annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.~~

~~(3) Soil loss prediction tools such as Revised Universal Soil Loss Equation 2 (RUSLE2) that estimate the sediment load leaving the construction site under varying land and management conditions.~~

(2) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE) or its successors RUSLE and RUSLE2) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.

(b) *Other standards.* Other technical standards not identified or developed in sub. (a), may be used provided that the methods have been approved by the City of Appleton.  
(Ord 180-04, §1, 1-1-05; Ord 183-11, §1, 1-1-12)

**Secs. 24-21 – 24-23. Reserved.**

**Sec. 24-24. Performance standards for non-permitted sites.**

(a) *Responsible party.* The ~~landowner of the construction site or other person contracted or obligated~~

~~by other agreement with the landowner to implement and maintain construction site BMPs is the responsible party and shall comply with this section.~~

(b) *Requirements.* Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

- (1) The deposition of soil from being tracked onto streets by vehicles.
- (2) The discharge of sediment from disturbed areas into on-site storm water inlets.
- (3) The discharge of sediment from disturbed ~~areas. areas into adjacent waters of the state.~~
- (4) The discharge of sediment from drainage ways that flow off the site.
- (5) The discharge of sediment by dewatering activities.
- (6) The discharge of sediment eroding from soil stockpiles existing for more than seven (7) days.
- (7) The transport by runoff ~~into waters of the state~~ of chemicals, cement and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

(c) *Location.* The BMPs used to comply with this section shall be located so that treatment occurs before runoff leaves the site or enters a storm conveyance system, any drainage channel or waters of the state.

(d) *Implementation.* The BMPs used to comply with this section shall be implemented as follows:

- (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
- (2) Erosion and sediment control practices shall be maintained until final stabilization.
- (3) Final stabilization activity shall commence when land disturbing activities cease and

final grade has been reached on any portion of the site.

- (4) Temporary stabilization activity shall commence when land disturbing activities cease and will not resume for a period exceeding fourteen (14) calendar days.
- (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

(6) All off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site deposits occurring as a result of land disturbing activities shall be cleaned up by the end of the workday. Flushing is not allowed.

(e) **Alternate requirements.** The City of Appleton may establish erosion and sediment control requirements more stringent than those set forth in this section if the City determines that an added level of protection is needed to protect resources.  
(Ord 184-11, §1, 1-1-12)

#### **Sec. 24-25. Performance standards for permitted sites.**

(a) **Responsible party.** The responsible party shall implement an erosion and sediment control plan, developed in accordance with §24-35, that incorporates the requirements of this section.

(b) **Plan.** A written site specific erosion and sediment control plan shall be developed in accordance with §24-35 and implemented for each construction site.

(c) **Erosion and other pollutant control requirements.** The plan required under sub. (b) shall include the following:

- (1) Erosion and sediment control practices shall be used to prevent or reduce all of the following:
  - a. The deposition of soil from being tracked onto streets by vehicles.
  - b. The discharge of sediment from disturbed areas into on-site storm water inlets.
  - c. The discharge of sediment from disturbed areas into adjacent waters of the state.

- d. The discharge of sediment from drainage ways that flow off the site.
  - e. The discharge of sediment by dewatering activities.
  - f. The discharge of sediment eroding from soil stockpiles existing for more than seven (7) days.
  - g. The discharge of sediment from erosive flows at outlets and in downstream channels.
  - h. The transport by runoff ~~into waters of the state~~ of chemicals, cement and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
  - i. The transport by runoff ~~into waters of the state~~ of untreated wash water from vehicle and wheel washing. Wastewaters, such as concrete truck washout, ~~needs to~~shall be properly managed to limit the discharge of pollutants ~~to waters of the state. A separate permit may be needed from the Department of Natural Resources (department) where a wastewater discharge has the potential to adversely impact waters of the state. The appropriate department wastewater specialist should be contacted to determine if wastewater permit coverage is needed where wastewater will be discharged to waters of the state.~~
- (2) For permitted sites with less than one (1) acre disturbed activity, Prior to December 31, 2012 BMPs that, by design, achieve to the maximum extent practicable, a reduction of eighty percent (80%) of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the site has undergone final stabilization. No person shall be required to exceed an eighty percent (80%) sediment reduction to meet the requirements of this paragraph.

- (3) For permitted sites with one (1) acre or more disturbed area, After January 1, 2013 BMPs that, by design, discharge no more than five (5) tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization, as determined by the WDNR construction site soil loss and sediment discharge guidance.

- (4) Erosion and Sedimentation BMPs may be combined to meet the requirements of this ~~paragraph~~section. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing activity, or other appropriate mechanism. The method of calculating the percent reduction in sediment shall be a method approved by the City of Appleton.

- (5) No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with MEP.

- ~~(56)~~ Notwithstanding sub. (2) and (3), if BMPs cannot be designed and implemented to meet these requirements, the plan shall include a written and site-specific explanation as to why the requirements are not attainable and how the sediment load shall be reduced to the maximum extent practicable.

- ~~(67)~~ *Preventative measures.* The plan shall incorporate all of the following:

- a. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
- b. Minimization of soil compaction and preservation of topsoil.
- c. Minimization of land disturbing construction activity on slopes of twenty percent (20%) or more.
- d. Development of spill prevention and response procedures.

- ~~(78)~~ All off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site deposits occurring as a result of land

disturbing activities shall be cleaned up by the end of the workday. Flushing is not allowed.

(d) **Location.** The BMPs used to comply with this section shall be located so that treatment occurs prior to runoff leaving the site or entering the storm conveyance system, any drainage channel or waters of the state.

(e) **Implementation.** The BMPs used to comply with this section shall be implemented as follows:

- (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with plan developed under §24-~~535~~.
- (2) Erosion and sediment control practices shall be maintained until final stabilization.
- (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (4) Temporary stabilization activity shall commence when land disturbing activities cease and will not resume for a period exceeding fourteen (14) calendar days.
- (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

(f) **Alternate requirements.** The City of Appleton may establish erosion and sediment control requirements more stringent than those set forth in this section if the City determines that an added level of protection is needed to protect sensitive resources.

(Ord 180-04, §1, 1-1-05; Ord 185-11, §1, 1-1-12)

**Secs. 24-26 – 24-29. Reserved.**

**Sec. 24-30. Permitting requirements, procedures and fees.**

(a) **Permit required.** No responsible party may commence any land-land disturbing activity subject to this ordinance ~~shall not commence~~ without first receiving approval of an erosion and sediment control plan for the site and a permit from the City of Appleton.

(b) **Permit application and fees.** ~~At least one~~ ~~(+)~~The responsible party desiring to undertake a land disturbing activity subject to this ordinance shall submit an application for a permit and an erosion and sediment



control plan that meets the requirements of §24-35 and shall pay an application fee to the City of Appleton. By submitting an application, the applicant is authorizing the City of Appleton to enter the site to obtain information required for the review of the erosion and sediment control plan.

**(c) *Review and approval of permit application.***

The City of Appleton shall review any complete permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

- (1) Within twenty (20) business days of the receipt of a complete permit application, as required by sub. (b), the City of Appleton shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.
- (2) If the permit application and plan are approved, the City of Appleton shall issue the permit.
- (3) If the permit application or plan is disapproved, the City of Appleton shall state in writing the reasons for disapproval.
- (4) The City of Appleton may request additional information from the applicant. If additional information is submitted, the City of Appleton shall have twenty (20) business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
- (5) Failure by the City of Appleton to inform the permit applicant of a decision within twenty (20) business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

**(d) *Performance security.*** The City of Appleton may, at its discretion, require the submittal of a cash escrow, irrevocable letter of credit, or performance security prior to issuance of the permit to ensure that the practices are installed and maintained by the responsible party as required by the approved erosion and sediment control plan and any conditions attached to the permit. The amount of the installation performance security shall be determined by the City of Appleton, not to exceed the total estimated construction cost of the erosion and sediment control practices approved under the permit unless otherwise specified in the permit. The amount of

any required maintenance performance security shall be determined by the City of Appleton. Any performance securities shall contain forfeiture provisions for failure to complete work specified in the plan.

Conditions for the release of performance security are as follows:

- (1) The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a professional engineer registered in the State of Wisconsin that the practice(s) were installed in accordance with the approved plan and other applicable provisions of this ordinance. The City of Appleton may make provisions for a partial pro-rata release of the performance security based on the completion of various development stages including the final inspection of landscaping material.
- (2) The maintenance performance security, minus any costs incurred by the City of Appleton to conduct required maintenance, design, engineering, preparation, checking and review of designs, plans and specifications; supervision and inspection to ensure that construction is in compliance with applicable plans, specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance, shall be released at such time that the responsibility for practice maintenance is passed on to another private entity, via an approved maintenance agreement, or to the City of Appleton.

**(e) *Permit requirements.*** All permits shall require the responsible party to:

- (1) Notify the City of Appleton no less than two (2) business days prior to commencing any land disturbing construction activity.
- (2) Notify the City of Appleton of completion of any BMPs within two (2) business days after their installation.
- (3) Obtain permission in writing from the City of Appleton prior to any modification pursuant to §24-35 of the erosion and sediment control plan.

- (4) Install all BMPs as identified in the approved erosion and sediment control plan.
- (5) Maintain and repair all road drainage systems, storm conveyance systems, BMPs and other facilities, both on and off site, identified in the approved erosion and sediment control plan.
- (6) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.
- (7) Inspect the BMPs within twenty-four (24) hours after each rain of 0.5 inches or more and at least once each week. Make needed repairs, install additional BMPs as necessary and document the findings of the inspections in an erosion control log kept on site with the date of inspection, the name of the person conducting the inspection, a description of the present phase of the construction, a description of any repairs needed and documentation of the completed repairs.

(8) Winter dormant inspection requirements. When a permitted construction site is shut down and dormant over the winter season, the applicant shall be exempt from weekly inspections as required in §24-30(e)(7) upon approval of the Director of Public Works. In order for a permitted site to be classified as winter dormant, the applicant must install erosion control measures to the satisfaction of the Director of Public Works, provide an inspection of these measures and then cease all construction activities except for minor maintenance activities. Once a site is classified as winter dormant by the Director of Public Works, inspections are only required within twenty-four (24) hours of a rain or thaw event as determined by the Director of Public Works. If at any time construction resumes or an erosion control failure occurs at the site, the site shall lose the winter dormant classification and the applicant must resume normal inspection.

(9) Documentation of inspection. When required by the City of Appleton, erosion control inspections, including any repairs needed and/or actions taken at the site, shall

be documented on the City of Appleton online erosion control self-reporting system. The permittee will be given access to this website, which contains documentations and forms for use in the erosion control inspections. Digital photographs of each of the erosion control practices and the site conditions shall be submitted and shall be required to meet the minimum inspection requirements of this section.

(§10) Allow the City of Appleton to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the plan. Keep a copy of the erosion and sediment control plan at the construction site.

(f) **Permit conditions.** Permits issued under this section may include conditions established by City of Appleton in addition to the requirements set forth in sub. (e), where needed to assure compliance with the performance standards in §24-25.

(g) **Permit duration.** Permits issued under this section shall be valid for a period of one (1) year, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance.

(h) **Maintenance.** The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization and final acceptance by the City of Appleton. Upon failure to perform the necessary maintenance of the erosion control practices, the City of Appleton retains the right to perform maintenance and/or repairs. The costs shall be assessed to the responsible party.

(i) All sites covered under this ordinance shall implement a long-term stormwater management plan per Wis. Adm. Code NR 216.47. For sites not subject to the Stormwater Management Standards and Planning Ordinance in Article VI of Chapter 20 of the Appleton Municipal Code, a stormwater management acknowledgement form, accepting the long-term stormwater management requirements, shall be required prior to receiving an erosion and sediment control permit.  
(Ord 180-04, §1, 1-1-05)

**Secs. 24-31 – 24-34. Reserved.**

**Sec. 24-35. Erosion and sediment control plan, statement and amendments.**

**(a) *Erosion and sediment control plan.***

- (1) An erosion and sediment control plan shall be prepared and submitted to the City of Appleton Department of Public Works unless the project is required to also submit a site plan. If a site plan is required, the complete erosion and sediment control permit application and appropriate fee shall be submitted to the City of Appleton Community Development Department with the site plan submittal.

(2) The complete erosion and sediment control plan shall be submitted in both hard copy and .pdf format.

- (23) The erosion and sediment control plan shall be prepared by a person who holds a registration issued by the Wisconsin Department of Regulation and Licensing in one (1) of the following categories:

- a. Architect.
- b. Engineer.
- c. Land Surveyor.
- d. Landscape Architect.

- (34) The erosion and sediment control plan shall be designed to meet the performance standards in §24-25 and other requirements of this ordinance.

- (45) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

- a. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's contact at such firm. The application shall also include start and end dates for construction.
- b. Description of the site and the nature of the land disturbing construction

activity. Sites of one (1) acre ~~ten (10) acres~~ or more shall include the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.

- c. The intended A—sequence of land disturbing construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date when clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, establishment of permanent vegetation and removal of erosion and sediment controls.

- d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.

- ~~e. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.~~

- ~~f. For sites less than one (1) acre of disturbed area, include BMPs meeting the provisions of Sec. 24-25(c)(2). Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.~~

- f. For sites with one (1) acre or more of disturbed area, provide calculations per WDNR Soil Loss Guidelines per Sec. 24.25(c)(3).

- g. Location and description of the existing surface soil as well as subsoils, as indicated by USDA Natural Resource Conservation ~~Department~~ Service Soil Survey information.

- h. Depth to groundwater, as indicated by USDA Natural Resources Conservation Department soil survey information.

- i. Name of the immediate named receiving water.
- (5) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than one hundred (100) feet per inch and at a contour interval not to exceed two (2) feet.
- a. Existing topography, vegetative cover, natural and engineered drainage systems, roads, and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on the site and on adjacent lands shall be shown. Any identified 100-year flood plains, flood fringes, floodways, and flood storage areas shall also be shown.
  - b. Boundaries of the parcel and the construction site.
  - c. Drainage patterns and approximate slopes before and after major grading activities.
  - d. Areas of soil disturbance.
  - e. Location, dimensions and descriptions of major structural and non-structural controls identified in the erosion and sediment control plan.
  - f. Location of areas where stabilization ~~practices~~ BMPs will be employed.
  - g. Areas that will be vegetated following construction.
  - h. Area(s) and location(s) of wetlands acreage ~~Area extent~~ of wetlands ~~acreage~~ on the site and locations where stormwater is discharged to a surface water or wetland, within one-quarter mile downstream of the construction site.
  - i. Water courses and wetlands that may affect or be affected by runoff from the site.
  - j. On sites one (1) acre ~~ten (10) acres~~ or larger an alphanumeric or equivalent grid overlying the entire construction site map.
  - k. Topography and drainage network of enough of the contiguous properties to show runoff patterns onto, through, and from the site.
  - l. Location, dimensions and description of utilities, structures and pavements.
  - m. Area(s) used for infiltration of post-construction stormwater runoff.
- (6) ~~Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching the storm conveyance system, any drainage channel, or waters of the state or from being carried off site. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:~~ Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:
- a. Description of interim and permanent stabilization practices, including ~~a~~ BMP implementation schedule. ~~Site~~ Erosion and sediment control plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
  - b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically

approved in writing by the City of Appleton, structural measures shall be installed on upland soils.

- c. Management of overland flow at all sites/areas of the construction site, unless otherwise controlled by outfall controls.
- d. Trapping of sediment in channelized flow.
- e. Staging land disturbing construction activities to limit bare-exposed soil areas subject to erosion.
- f. Protection of downslope drainage inlets where they occur.
- g. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction sites.
- h. Clean up of off-site sediment deposits.
- i. Proper disposal of building and waste materials, at all sites, including but not limited to designated sites for concrete truck washout.
- j. Stabilization of drainage ways.
- k. Control of soil erosion from stockpiles.
- l. Installation of permanent stabilization practices within ten (10) days after final grading.
- m. Minimization of dust to the maximum extent practicable.

(Ord 187-11, §1, 1-1-12)

- (7) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(b) ***Erosion and sediment control plan statement.***

For each land disturbing construction site identified under §24-15, an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the City of Appleton. The control plan

statement shall briefly describe the site, the development schedules and the best management practices that will be used to meet the requirements of the ordinance.

(c) ***Amendments.*** The applicant shall amend the plan if any of the following occur:

- (1) There is a change in design, construction, operation or maintenance at the site that has the reasonable potential for the discharge of pollutants and has not otherwise been addressed in the erosion and sediment control plan.
- (2) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.

- (3) The City of Appleton notifies the applicant of changes needed in the plan.

(Ord 180-04, §1, 1-1-05)

**Secs. 24-36 – 24-39. Reserved.**

**Sec. 24-40. Fee schedule.**

Fees for the erosion and sediment control permits will be in such amount as may be established by the City of Appleton Common Council from time to time by separate resolution. Fees will be on file with the City Clerk.

(Ord 180-04, §1, 1-1-05)

**Secs. 24-41 – 24-44. Reserved.**

**Sec. 24-45. Site inspections.**

Whenever land disturbing activities are being carried out, the City of Appleton may enter the land pursuant to the provisions of §§66.0119(1), (2), and (3), Wis. Stats. (Ord 180-04, §1, 1-1-05; Ord 188-11, §1, 1-1-12)

**Secs. 24-46 – 24-49. Reserved.**

**Sec. 24-50. Enforcement and penalties.**

(a) Any land disturbing—development—or redevelopment activity initiated after the effective date of this ordinance by any person, firm, association or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with these ordinance provisions.

(b) The City of Appleton shall notify the responsible party in writing of any non-complying land development or redevelopment activity. The notice shall

describe the nature of the violation, remedial actions needed, a schedule for remedial action and additional enforcement action, which may be taken.

(c) Upon receipt of written notification from the City of Appleton, the responsible party shall make the necessary corrections work, which does not comply with the erosion and sediment control plan or other provisions of this permit within twenty four (24) hours, or other the time period established by the City of Appleton. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the City of Appleton in the notice.

(d) If the violations ~~to a permit~~ issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City of Appleton may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of Appleton plus interest and legal costs shall be billed to the responsible party.

(e) The City of Appleton is authorized to post a stop work order on all land development or redevelopment activity in violation of this ordinance, or to request the Appleton City Attorney to obtain a cease and desist order.

(f) The City of Appleton may revoke a permit issued under this ordinance for noncompliance with ordinance provisions.

(g) Any permit revocation, stop work order or cease and desist order shall remain in effect unless retracted by the City of Appleton or by a court of competent jurisdiction.

(h) The City of Appleton is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Appleton City Attorney for the commencement of further legal proceedings.

(i) Any person, firm, association or corporation who does not comply with the provisions of this ordinance shall be subject to the general penalty provisions of the Appleton Municipal Code §1-16. Each day that the violation exists shall constitute a separate offense.

(j) Violations of this ordinance deemed to be a public nuisance shall be subject to abatement under §12-32 of the City of Appleton Municipal Code or compliance with this ordinance may be enforced by injunctive order in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

(k) When the City of Appleton determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the erosion and sediment control plan submitted and approved pursuant to this ordinance, or has failed to comply with schedules set forth in said erosion and sediment control plan, the City of Appleton or a party designated by the City of Appleton may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City of Appleton shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance security posted pursuant to this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property.

(l) No building occupancy may be issued if there is noncompliance of any provision herein.

(m) No building permit may be issued in any subdivision when the subdivision is not in compliance with the requirements of this chapter.  
(Ord 180-04, §1, 1-1-05)

#### **Secs. 24-51 – 24-54. Reserved.**

#### **Sec. 24-55. Appeals**

(a) The Utilities Committee of the Appleton Common Council shall hear and recommend to Council appeals where it is alleged that there is error in any order, decision or determination made by the City of Appleton in administering this ordinance except for cease and desist orders obtained under Sec. 24-50(e). The Committee shall use the rules, procedures, duties and powers authorized by statute in hearing and recommending appeals.

Upon appeal, the Committee may recommend to Council relief from the provisions of this ordinance that are not contrary to the public interest or provisions of state regulations, and where owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship.

(b) **Who may appeal.** Appeals to the Utilities Committee of the City of Appleton may be taken by any aggrieved person or by an officer, department, board or bureau of the City of Appleton affected by any decision of the City of Appleton. Written appeals shall be filed with the City Clerk. The Utilities Committee will make a recommendation within forty-five (45) calendar days of

filing of the appeal. If the Utilities Committee takes no action within forty-five (45) calendar days, the appeal will automatically be sent to Council with a recommendation for approval. Either party may file a written request for a time extension with the City Clerk.  
(Ord 180-04, §1, 1-1-05)

**Secs. 24-56 – 24-59. Reserved.**

**Sec. 24-60. Severability.**

If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portion thereof of the ordinance which shall remain in full force and effect.

(Ord 180-04, §1, 1-1-05)

\*Editor's Note: Chapter 24 was repealed and recreated by ordinance 180-04. This ordinance is effective as of January 1, 2005.

*(The next page is 2259.)*

Last Update: May 2, 2016

By: Sue Olson and Jim Walsh

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May 19, 2016

To: Fox Cities Transit Commission

From: Amy Erickson, Paratransit Coordinator/Operations Supervisor

**Subject: Award 2016 Downtown Trolley Contract to Lamers Bus Lines**

**Background:** Valley Transit 2016 budget includes \$30,024 to provide downtown trolley service with Appleton Downtown, Inc. (ADI) paying the local share. In 2015, Lamers Bus Lines operated the trolley service for ADI and Valley Transit from June through September on Thursdays and Fridays from 5 P.M. to 11 P.M. and on Saturdays from 8 A.M. to 11 P.M. with a total ridership of 5,868 passengers. The Downtown Trolley continues to be a valuable asset that contributes to Valley Transit and Downtown Appleton's branding and marketing efforts, by attracting people who may not otherwise ride and connecting them to the fixed route bus system.

**Process:** In March, Valley Transit issued a Request for Proposal to provide downtown Appleton trolley service for the period June 2, 2016 through September 24, 2016 with options to extend for two additional three month periods in 2017 & 2018. The RFP packet was electronically sent directly to a contractor distribution list of current providers and interested parties, advertised on the Valley Transit/City of Appleton website, and published in the Post-Crescent, Green Bay Press Gazette, and the Oshkosh Northwestern newspapers. Valley Transit only received one proposal from Lamers Bus Lines by the April 29, 2016 deadline. Although only one responsive proposal was received, it was evaluated with the same rigor used to evaluate multiple proposals. The evaluation panel consisted of Valley Transit's Community Relations Specialist Nikki Voelzke, Executive Director of ADI Jennifer Stephany, Administrative Services Manager Deb Ebben, and Paratransit Coordinator Amy Erickson. Evaluation criteria included, experience, professional competence, capacity, proposals, and price. The proposed hourly cost remained the same as last year's contracted rate of \$72.29 per hour. The downtown trolley service is included in Valley Transit's budget for 2016 and is eligible for funding from the State and Federal government. ADI has agreed to pay 100% of the local share.

**Recommendation:** Staff recommends and requests approval of the contract with Lamers Bus Lines to provide Downtown Trolley service at a cost of \$72.29 per hour.





May 18, 2016

To: Fox Cities Transit Commission

From: Daniel Sandmeier Assistant General Manager

**Subject: Octoberfest Fares**

The Fox Cities Transit Commission has requested that staff review a variety of options for the level of fare collection associated with Octoberfest service.

The Octoberfest service has grown into a key event for the Valley Transit team. We have historically provided approximately 5,000 rides to the Friday License to Cruise events and over 10,000 rides to the Saturday Octoberfest activities.

The level of Octoberfest service allows us to attract both first time riders to the Valley Transit system and interact with portions of our community that may rarely use our services. Due to the high volume of riders, it is essential that our services are easy to use, easy to understand and well-advertised. These riders' impression of Valley Transit may be exclusively based on the experiences that they have surrounding the Octoberfest events.

The potential upside of a fare increase is mainly tied to the increased revenue collection that might be realized. The following chart shows the potential income from raising rates for License to Cruise and Octoberfest:

Fare	Additional revenue (over \$.25)
\$0.50	\$3,750
\$0.75	\$7,500
\$1.00	\$11,250

The potential downsides of a fare increase include many issues.

First, any additional theoretical revenue must be balanced against a potential loss of ridership. If for example, we were to raise the rate to \$0.50, and there were to be a corresponding 10% reduction of ridership, the increase in revenue would also be reduced by that amount. The following chart shows the effect a 10% reduction in ridership would have on potential additional revenue:

Fare	Additional revenue (over \$.25) 10 % reduced ridership
\$0.50	\$3,375
\$0.75	\$6,750
\$1.00	\$10,125

Second, as this may be the only experience that many of these riders will have with Valley Transit this year, we believe that any increase in friction during the interaction between the driver and the passengers at the farebox has a large negative value. In order to quickly and efficiently load the standing room only buses throughout the day, we depend on every step of the fare exchange being as simple as possible.

Valley Transit puts everything it has into providing the quality of service we are known for during the Oktoberfest weekend. Due again to the volume of ridership, we stress our equipment heavily throughout the weekend, and have little to no spare equipment on standby in case of failure. The \$0.25 fare is the easiest, and most robust fare for us to collect and process. If we were to switch to a fare that would involve the use of more dollar bills, we would worry about the ability for our farebox system to handle the work load. The dollar bill feed mechanism is sensitive to moisture, which can take valuable time to adjust, repair and put back into service. The dollar bill storage bay also fills during the event and needs emptying, more frequent need could cause delays to routes already running at capacity.

Third, we believe strongly that the efforts Valley Transit expends on the Oktoberfest events yield extraordinary marketing benefit. Our limited advertising budget would never allow us to purchase the advertising media which would be required to replicate the value of the reach, and impact of being useful to our communities during an event such as Oktoberfest provides. The cost of producing a high quality television commercial is larger than the potential for increased revenue, without considering the air time costs to get a commercial in front of an audience as large as we will have the chance to reach during Oktoberfest.

Although the risk of incurring negative impressions through a fare increase are difficult to estimate, it is probably safe to say some people will be upset by an increase. One disappointed, vocal citizen can cause damage to a reputation. Valley Transit is justifiably proud of its stature in the community, and feel it is vital to maintain as broad a base of support as possible.

**Recommendation: Continue to offer Oktoberfest service at \$0.25. Continue to monitor parking situation in downtown Appleton watching for increases in parking charges.**

**AN ORDINANCE AMENDING CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON AND THE OFFICIAL ZONING MAP WHICH IS A PART THEREOF, BY MAKING THE FOLLOWING CHANGES IN THE DISTRICT AS NOW PROVIDED.**

(City Plan Commission 6-1-16)

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

**Section 1:** That Zoning Ordinance, Chapter 23 of the Municipal Code of the City of Appleton and the Official Zoning Map, which is a part thereof, is amended by making the following changes:

To rezone lands located on the north side of East Broadway Drive, east of North Meade Street and west of North Kurey Drive, from AG Agricultural District to R-1A Single-Family District. (Rezoning #3-16 – Kurey)

**LEGAL DESCRIPTION:**

PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, SECTION 36, TOWNSHIP 22 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN, MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 36; THENCE NORTH 00 DEGREES 11 MINUTES 50 SECONDS EAST, ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION, A DISTANCE OF 921.85 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 31 MINUTES 24 SECONDS WEST, A DISTANCE OF 435.42 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 56 SECONDS EAST, A DISTANCE OF 72.33 FEET; THENCE NORTH 89 DEGREES 29 MINUTES 43 SECONDS WEST, A DISTANCE OF 227.06 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 56 SECONDS EAST, ALONG THE WEST LINE OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION, A DISTANCE OF 327.57 FEET; THENCE SOUTH 89 DEGREES 31 MINUTES 24 SECONDS EAST, ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION, A DISTANCE OF 662.58 FEET; THENCE SOUTH 00 DEGREES 11 MINUTES 50 SECONDS WEST, ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION, A DISTANCE OF 400.00 FEET TO THE POINT OF BEGINNING. CONTAINING 248,575 SQUARE FEET [5.708 ACRES].

**COMMON DESCRIPTION:**

A portion of land on the north side of East Broadway Drive, east of North Meade Street and west of North Kurey Drive

**Section 2:** This Ordinance shall be in full force and effect from and after its passage and publication, and upon its passage and publication the Director of Community and Economic Development is authorized and directed to make the necessary changes to the Official Zoning Map in accordance with this Ordinance.