



City of Appleton

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

Meeting Agenda - Final Municipal Services Committee

Tuesday, January 24, 2017

6:30 PM

Council Chambers, 6th Floor

1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting
[17-099](#) Minutes from January 18, 2017

Attachments: [Minutes from January 18, 2017.pdf](#)

4. Public Hearings/Apearances

5. Action Items

- [17-028](#) Approve proposed expansion of Article IV. Right-of-Way Management, Section 16 Municipal Code.

Attachments: [Article IV. Right-of-Way Management.pdf](#)

- [17-029](#) Approve City of Appleton Sidewalk Painting Policy for Safe Routes to School.

Attachments: [Sidewalk Painting Policy.pdf](#)

- [17-030](#) Approve updated Snow Removal Policy to reflect agreement with Outagamie County.

Attachments: [Updated Snow Removal Policy.pdf](#)

- [17-031](#) Approve Crosswalk Marking/Enhancement Policy for Uncontrolled Crossings at Intersections.

Attachments: [Crosswalk Marking Enhancement.pdf](#)

- [17-038](#) Delete Snow Emergency Ramp Parking Policy.

Attachments: [Snow Emergency Ramp Parking Policy.pdf](#)

- [17-103](#) Approve removal of traffic signals at the intersections of Franklin/Superior and Franklin/Oneida.

Attachments: [Traffic Signal Removal Franklin-Superior & Franklin-Oneida.pdf](#)

6. Information Items

- [17-032](#) 2017 Fee Schedule

Attachments: [2017 Fee Schedule.pdf](#)

- [17-036](#) Traffic Signal Maintenance Agreement with Calumet County.

Attachments: [Traffic Signal Maintenance Agreement with Calumet Cty.pdf](#)

- [17-037](#) Inspection Division Permit Summary Comparison Report for December, 2016.

Attachments: [Inspection Division Permit Summary Comparison Report for December, 2016.px](#)

- [17-034](#) Discuss Municipal Code Section 16-10 Snow and Ice Removal in regards to driveway aprons.

Attachments: [Municipal Code Section 16-10 Snow & Ice Removal.pdf](#)

- [17-045](#) Picture of Glendale Avenue bike lane user.

Attachments: [Picture of Glendale Avenue bike lane user.pdf](#)

- [17-095](#) 2016 Snow & Ice Budget update

7. Adjournment

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

Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible. Please contact Paula Vandehey at 832-6474 if you have any questions.



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Meeting Minutes - Final Municipal Services Committee

Wednesday, January 18, 2017

6:30 PM

Council Chambers, 6th Floor

1. Call meeting to order

2. Roll call of membership

Present: 3 - Croatt, Coenen and Konetzke

Excused: 2 - Martin and Mann

3. Approval of minutes from previous meeting

[17-027](#)

Minutes from December 13, 2016.

Attachments: [Minutes from December 13, 2016.pdf](#)

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

Aye: 3 - Croatt, Coenen and Konetzke

Excused: 2 - Martin and Mann

4. Public Hearings/Appearances

5. Action Items

[17-033](#)

Approve 2017 Sole Source Purchasing Request for various traffic equipment and technologies.

Attachments: [2017 Sole Source Purchasing Request.pdf](#)

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

Aye: 3 - Croatt, Coenen and Konetzke

Excused: 2 - Martin and Mann

[17-044](#)

Award of Contract for engineering services for Bridge Rehabilitation Reports to Collins Engineers, in an amount not to exceed \$26,096.81.

Attachments: [Contract for Bridge Rehabilitation Reports to Collins Engineers.pdf](#)

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

Aye: 3 - Croatt, Coenen and Konetzke

Excused: 2 - Martin and Mann

6. Information Items

7. Adjournment

Coenen moved, seconded by Konetzke, that the meeting be adjourned. Roll Call. Motion carried by the following vote:

Aye: 3 - Croatt, Coenen and Konetzke

Excused: 2 - Martin and Mann

ARTICLE IV. RIGHT-OF-WAY MANAGEMENT

SECTION ____ . RIGHT-OF-WAY MANAGEMENT

Sec. 16-100. Findings and purpose.

(a) In the exercise of its police powers, the City has priority over all other uses of the public rights-of-way. The City desires to anticipate and minimize the number of obstructions and excavations taking place in the public rights-of-way to ensure that the rights-of-way remain available for public services and safe for public use. The taxpayers of the City bear the financial burden for the upkeep of the rights-of-way and a primary cause for the early and excess deterioration of the public rights-of-way is the frequent excavation by Person who place facilities therein.

The City finds that there has been an increase in the use of the public rights-of-way and, as a result, increased costs to the taxpayers of the City and that these costs are likely to continue into the foreseeable future.

The City finds that excavation and occupancy of the public rights-of-way causes direct and indirect costs to be borne by the City and its taxpayers, including but not limited to:

- (1) Administrative costs associated with public rights-of-way projects, such as registration, permitting, inspection and supervision, supplies and materials.
- (2) Management costs associated with ongoing management activities necessitated by public right-of-way users.
- (3) Repair costs to the roadway associated with the actual excavation into the public right-of-way.
- (4) ~~Degradation costs defined as depreciation caused to the roadway in terms of decreased useful life, due to excavations into the public rights-of-way.~~

In response to the foregoing facts, the City hereby enacts this ordinance relating to the administration and permitting of excavation, obstruction and/or occupancy of the public rights-of-way, together with an ordinance making necessary revisions to other Code provisions. This ordinance imposes reasonable regulations on the placement and maintenance of facilities currently within in rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies and not conflict with regulations of those agencies.

The purpose of this ordinance is to provide the City a legal framework within which to regulate and manage the public rights-of-way, and to provide for recovery of costs. This ordinance provides for the health, safety and welfare of the residents of the City as they use the rights-of-way of the City, as well as to ensure the structural integrity of the public rights-of-way.

Under this chapter, all Persons who excavate, obstruct and/or occupy the public rights-of-way will reimburse the City's administrative, ~~ongoing management and degradation~~ costs. Right-of-way users will bear a fair share of the financial responsibility for the integrity of the public rights-of-way.

Sec. 16-101. Definitions.

The following definitions apply in this ordinance. References hereafter to "sections" are, unless otherwise specified, references to sections in this ordinance. Defined terms remain defined terms whether or not capitalized.

Applicant means any person requesting permission to excavate, obstruct and/or occupy a right-of-way.

City means the City of Appleton.

~~**Degradation** means the accelerated depreciation of the right-of-way, caused by an excavation of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.~~

Department means the City's Director of Public Works.

Department inspector means any person authorized by the Department to carry out inspections relating to the provisions of this chapter.

Emergency means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property or (2) requires immediate repair or replacement in order to restore service to a customer.

Excavate means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Facilities means all equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include but is not limited to poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.

In, when used in conjunction with "right-of-way", means over, above, in, within, on or under a right-of-way.

Local representative means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

Obstruct means to place any object in a right-of-way as to hinder free and open passage over/under on or in that or any part of the right-of-way.

Occupy means to dwell or reside above, on, in, or below the boundaries of the public rights-of-way.

Permittee means any person to whom a permit to excavate or occupy a right-of-way has been granted by the City under this chapter.

Person means, municipality, corporation, company, including a "Company" defined as Wis. Stat. § 182.017(1g)(b), association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees and receivers.

PSCW means the Public Service Commission of Wisconsin.

Public Utility has the meaning provided in Wis. Stat. § 196.01(5).

Registrant means any person who has registered with the City (1) to have its facilities located in any right-of-way or (2) to use or seek to occupy or use the right-of-way or any facilities in the right-of-way.

Repair means to perform construction work necessary to make the right-of-way useable for travel, according to department specifications, or to return facilities to an operable condition that is in as good or a better condition as the facilities were before the work commenced.

Repair Bond means a license or permit bond, a letter of credit, or cash deposit posted to ensure the ability of sufficient funds to assure that right-of-way excavation repair work is completed in both a timely and quality manner, per Department specifications.

Right-of-way means the surface and space above and below a public roadway, highway, street, bicycle lane, landscape terrace, shoulders, side slopes, and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes.

Rights-of-way User means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way.

Service or utility service includes services such as municipal sewer and water services and services provided by a Public Utility or a Company subject to Wis. Stat. § 182.017 and other similar services.

Supplementary application means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that has already been issued.

Unusable facilities means facilities in the right-of-way which have remained unused for one year and for which the registrant is unable to provide proof that it has either a plan to begin using them within the next twenty-four (24) months or a potential purchaser or user of the facilities.

Sec. 16-102. Administration.

The Department is responsible for the administration of the rights-of-way, and the permits and ordinances related thereto.

Sec. 16-103. Registration for right-of-way occupancy.

(a) *Registration.* Each service, utility service or right-of-way user who occupies, uses, or seeks to occupy or use, the right-of-way or any facilities in the right-of-way, including by lease, sublease or assignment, or who has, or seeks to have, facilities located in any right-of-way shall register with the Department and pay the fee on file with the Department. Registration will consist of providing application information and paying a registration fee. This section shall not apply to those persons exclusively utilizing facilities provided by another right-of-way user.

(b) *Registration prior to work.* No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the Department.

(c) *Exceptions.* Nothing herein shall be construed to repeal or amend the provisions of a City ordinance requiring persons to plant or maintain the tree lawn in the area of the right-of-way between their property and the street curb, construct sidewalks, install street signs or perform other similar activities. Persons performing such activities shall not be required to obtain any permits under this chapter.

Sec. 16-104. Registration information.

(a) *Information required.* The information provided to the Department at the time of registration shall include, but not be limited to:

- (1) Each registrant's name, Diggers Hotline registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
- (2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
- (3) All right-of-way users shall demonstrate to the satisfaction of the City the financial capability to cover any liability that might arise out of their presence in the right-of-way. If the person is a corporation, a LLC or LLP, a copy of any certificate required to be filed under Wisconsin Statutes as recorded and certified to the Secretary of State and shall be included with the registration.

- (4) A copy of the person's certificate of authority from PSCW or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.
- (5) Execution of an indemnification agreement in a form prescribed by the Department, which is consistent with, and shall not exceed the obligations provided in, Sec. 16-126 herein.

(b) *Notice of changes.* The registrant shall keep all of the information listed above current at all times by providing to the Department information as to changes within fifteen (15) working days following the date on which the registrant has knowledge of any change.

Sec. 16-105. Registration fee.

(a) *Annual registration fee.* Each registrant shall annually renew its registration or discontinue and properly abandon its facilities. The Department shall establish the registration fee in an amount sufficient to recover the costs incurred by the City for processing registrants. This fee shall be computed as the average of labor costs, indirect costs, and other costs associated with registration.

(b) *Fee computation.* The Department may recalculate and establish a new registration fee each year and said fee shall be on file with the Department.

Sec. 16-106 to 16-109. Reserved.

Sec. 16-110. Excavation permit requirement.

(a) *Excavation permit required.* Except as otherwise provide in this chapter or other chapters of the Municipal Code, no person shall excavate any right-of-way or place facilities in a right-of-way without first having obtained an excavation permit from the department.

No person shall excavate right-of-way or maintain an excavation in the right-of-way beyond the date or are specified in the permit unless such person makes a supplementary application for another excavation permit before the expiration of the initial permit, pursuant to Sec. 16-118, and a new permit or permit extension is granted.

(b) *Permit display.* A copy of any permit issued under this chapter shall be made available at all times by the Permittee at the indicated work site and shall be available for inspection by the department upon request.

Sec. 16-111. Excavation permit application.

(a) Application for a permit shall be made to the Department. Permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

- (1) Registration with the Department as required by this Chapter;
- (2) Submission of a completed permit application form, including the following:
 - a. If the proposed project involves the installation of a pole or tower in the right-of-way, the applicant must submit scaled drawings of the proposed pole or tower and all proposed attachments.
 - b. the applicant shall identify in detail the location of the proposed project and any affected right-of-way, public utility easements, and the location of all existing and proposed facilities within the project area in addition to installation details, traffic control plans and other details requested by the Department;

- c. If the proposed project involves the installation of a pole or tower in the right-of-way, the applicant ~~must~~ may be required to submit evidence sufficient to demonstrate that the applicant is prohibited from using an existing pole or tower (either owned by the applicant or a third party) because such use is technically infeasible, economically prohibitive, or prohibited by law.
- d. If the proposed project involves the installation of a pole or tower in the right-of-way that is greater than 10 feet taller than existing poles or towers in nearby right-of-way, the applicant ~~must~~ may be required to submit evidence sufficient to demonstrate that:
 - 1. the greater height is required to accomplish the applicant's purposes;
 - 2. the applicant is prohibited from using existing poles or towers (either owned by applicant or a third party) to accomplish its purposes because such use is technically infeasible, economically prohibitive, or prohibited by law; and
 - 3. the pole or tower, due to its height and size, poses no greater danger to the health, safety, and welfare of the public than existing poles in nearby right-of-way.

(3) Payment of all money due to the City for:

- a. applicable permit fees and costs as set forth below;
- b. unpaid fees or costs due for prior excavations; or
- c. any loss, damage, or expense suffered by the City because of applicant's prior excavations of the rights-of-way or any emergency actions taken by the City.

(4) A statement on forms provided by the Department that the registrant will comply with all local, state, and federal codes including, but not limited to, safety, building, traffic control codes, and the Manual of Uniform Traffic Control Devices (MUTCD).

(5) Furnish a certificate of liability insurance compliant with standards of the Department.

(6) Post a ~~repair permit~~ bond unless waived by the Department. When an excavation permit is requested for purposes of installing additional facilities, and the posting of a repair bond for the additional facilities is insufficient, the posting of an additional or larger repair bond for the additional facilities may be required.

(7) The Department shall not deny a registrant an excavation permit because of a dispute between the City and the registrant, related to Sec. 16-111(a)(3)(b) and/or Sec. 16-111(a)(3)(c) if:

- a. the dispute has been adjudicated in favor of the registrant;
- b. the dispute is the subject of an appeal filed by the registrant and no decision in the matter has at yet been rendered.

Sec. 16-112. Excavation permit fee.

(a) *Fee calculation.* The excavation permit fee shall be established by the Department annually in an amount sufficient to recover the costs incurred by the City. This fee ~~shall may~~ recover costs incurred by the City for each of the following categories as provided herein:

(1) Administrative: The general formula for computing the administrative fee shall be the average per-permit costs for labor plus indirect and other costs.

(2) Repair: No repair fee shall be collected by the City. However, the permittee shall be required to repair the public right-of-way to Department specifications, subject to inspection and acceptance by the Department, as per Sec. 16-113, ~~and to pay a degradation fee.~~

~~(3) Degradation: The general formula for computing the degradation fee shall be the cost per square yard for street, overlay and seal coat multiplied by the appropriate depreciation rate for that street multiplied by the area of the patch.~~

~~The area of the patch shall generally be square and calculated by adding two feet to each side of the anticipated street cut and then, at the option of the Department, extending to the full pavement lane width. Depreciation schedules shall be provided by type of street.~~

~~The total excavation permit fee shall be calculated as follows: Total Excavation Permit Fee = Administrative Cost + Degradation Fee.~~

(b) *City exemption.* The City shall not pay administrative ~~and degradation~~ fees nor shall any person performing work in the right of way pursuant to a contract with the City.

(c) *Payment of permit fees.* No excavation permit shall be issued without payment of applicable fees, unless the applicant shall agree to pay such fees within thirty (30) days of billing therefor.

(d) *Fee computation.* The Department may recalculate and establish a new fee structure each year.

(e) *Non-refundable.* Permit fees paid for a permit that the Department has revoked for a breach as stated in Sec. 16-120 are not refundable.

Sec. 16-113. Right-of-way repair.

(a) The work to be done under the excavation permit, and the repair of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the Permittee or when work was prohibited as unseasonable or unreasonable under Sec. 16-120.

~~(b) In addition to repairing its own work, the Permittee must repair the general area of the work, and the surrounding areas, including the paving and its foundations, to the specifications of the Department. The Department shall inspect the area of the work and accept the work when it determines that proper repair has been made, per specifications of the Department.~~

(eb) A Permittee may request to have the City repair the right-of-way.

(1) City repair. If the Permittee requests to have the City repair the right-of-way, the City may accept or reject the request at its sole option. If the City accepts, the Permittee shall be billed for the City's costs, and shall pay the amount thereof within thirty (30) days of billing.

(2) Permittee repair. If the Permittee ~~chooses to repair~~ the right-of-way, it shall, unless waived by the Department, at the time of application for an excavation permit, post a repair bond in an amount determined by the Department to be sufficient to cover the cost

of repairing the right-of-way to Department specifications. If, ~~thirty-six~~twenty-four (3624) months after completion of the repair of the right-of-way, the Department determines that the right-of-way has been properly repaired, the surety on the repair bond shall be released.

(dc) **Standards.** The Permittee shall perform repairs according to the specifications of the Department and/or in accordance with the conditions specified in the permit. The Department shall have the authority to prescribe the manner and extent of the repair and may do so in written procedures of general application or on a case-by-case basis.

(ed) **Guarantees.** The Permittee guarantees its work and shall maintain it for ~~thirty-six~~twenty-four (3624) months following its completion, except for organic material, which shall be maintained for twelve (12) months. During either period, the Permittee shall, upon notification from the Department, correct all repair work to the extent necessary, using the method required by the Department. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the Department, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Sec. 16-119.

(fe) **Failure to repair.** If the Permittee fails to repair the right-of-way in the manner and to the condition required by the Department, or fails to satisfactorily and timely complete all repair required by the Department, the Department at its option may do such work. In that event the Permittee shall pay to the City, within thirty (30) days of billing, the cost of repairing the right-of-way. If the Permittee fails to pay as required, the City may exercise its rights under the repair bond.

Sec. 16-114. Reserved.

Sec. 16-115. Inspection.

(a) **Notice of completion.** When the work under any permit issued hereunder is completed, the Permittee shall notify the Department.

(b) **Site inspection.** The Permittee shall make the work site available to the Department and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(c) **Authority of department.** At the time of inspection, the City may order the immediate cessation of any work that poses a threat to the life, health, safety, or well-being of the public. The City may issue an order to the registrant for any work that does not conform to the applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the registrant shall present proof to the Department that the violation has been corrected. If such proof has not been presented within the required time, the Department may revoke the permit pursuant to Sec. 16-120.

Sec. 16-116. Fall radius/breakaway requirements.

(a) Poles and other utility structures over 60 feet in height shall be located so that all residential, commercial, retail or other occupied buildings are outside the fall radius of the structure.

(b) Rigid non-breakaway poles ~~and other utility structures~~ shall be located a minimum of 10' from roadway curbs or shoulders and behind existing or future sidewalks.

Sec. 16-117. Joint applications.

(a) **Joint application.** Registrants may jointly apply for permits to excavate the right-of-way at the same place and time.

(b) *With City projects.* Registrants who join in a scheduled excavation performed by the City, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the degradation portion of the excavation permit fee.

(c) *Shared fees.* Registrants who apply for permits for the same excavation, which the Department does not perform, may share in the payment of the excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Sec. 16-118. Supplementary applications.

(a) *Limitations on area.* An excavation permit is valid only for the area of the right-of-way specified in the permit. Facilities must be installed within eighteen inches (18") of the area shown on the approved permit. No Permittee may perform any work or excavate outside the area specified in the permit, except as provided herein. Any Permittee which determines that an area greater than that specified in the permit must be excavated shall, before working in that greater area (1) make application for a permit extension and pay any additional fees required thereby and (2) be granted a new permit or permit extension.

(b) *Limitation on dates.* An excavation permit is valid only for the dates specified in the permit. No Permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a Permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs and receive the new permit or an extension of the old permit before working after the end date of the previous permit.

(c) *Fees for supplementary applications.* A Permittee shall pay administration costs for any additional permits. A Permittee is not required to pay an additional degradation fee for the same excavation, if such fee has already been paid on the original permit.

Sec. 16-119. Other obligations.

(a) *Compliance with other laws.* Obtaining a permit to excavate and/or occupy the right-of-way does not relieve a Permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other City, county, State, or Federal rules, laws or regulations. A Permittee shall comply with all requirements of local, state, and federal laws. A Permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(b) *Prohibited work.* Except in an emergency, or with the approval of the Department, no right-of-way excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Sec. 16-120. Revocations, suspensions, refusals to issue or extend permits.

(a) *Grounds.* The Department may refuse to issue a permit or may revoke, suspend or refuse to extend an existing permit if it finds any of the following grounds:

- (1) The applicant or Permittee is required by Sec. 16-103 to be registered and has not done so or the permit application is otherwise incomplete;
- (2) The applicant or Permittee is seeking to perform work not included in its construction and major maintenance plan; which work was reasonably foreseeable by the applicant or Permittee at the time said plan was filed;
- (3) Issuance of a permit for the requested date would or interfere with an exhibition, celebration, festival, or other event;
- (4) Misrepresentation of any fact by the applicant or Permittee;

- (5) Failure of the applicant or Permittee to maintain required bonds and/or insurance;
- (6) Failure of the applicant or Permittee to complete work in a timely manner;
- (7) The proposed activity is contrary to the public health, safety or welfare;
- (8) The extent to which space is available in the right-of-way for which the permit is sought;
- ~~(9) The competing demands for the particular space in the right of way;~~
- ~~(409)~~ The availability of other locations in the right-of-way or in other rights-of-way for the facilities of the Permittee or applicant;
- ~~(410)~~ If the Permittee or applicant proposes to install a new pole or tower in the right-of-way, the availability of other existing poles or towers owned by the Permittee or applicant or by a third party;
- ~~(4211)~~ The applicability of ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;
- ~~(4312)~~ The condition and age of the right-of-way, ~~and or~~ whether and when it is scheduled for total or partial reconstruction; or
- ~~(4413)~~ The applicant or Permittee is otherwise not in full compliance with the requirements of this chapter or state or federal law.

(b) *Discretionary issuance.* Notwithstanding Sub. (a)(2), the Department may issue a permit where issuance is necessary (a) to prevent substantial economic hardship to a customer of the Permittee or applicant, or (b) to allow such customer to materially improve its Public Utility service, or (c) to allow the Permittee or applicant to comply with state or federal law or City ordinance or an order of a court or administrative agency.

(c) *Appeals.* Any person aggrieved by a decision of the Department revoking, suspending, refusing to issue or refusing to extend a permit may, within ten (10) days of the Department's decision being issued, file a written request with the Department seeking a review of the decision by the Municipal Services Committee. Following a hearing the Municipal Services Committee may affirm, reverse or modify the decision of the Department. The decision of the Municipal Services Committee is final.

(d) *Time limit to act and written denial.* The City shall approve or deny a permit application no later than sixty (60) days after receipt of the application. If the City fails to act on the application within that sixty (60) day period, the application shall be deemed granted and the City shall issue the permit to Applicant. If the City denies a permit application, the City shall provide Applicant with a written explanation of the reason for the denial at the time the City denies the application. *See Wis. Stat. § 182.017(9).*

Sec. 16-121. Work done without a permit.

(a) *Emergency situations.* Each registrant shall immediately notify the City, by verbal notice, of any event regarding its facilities that it considers an emergency. The registrant may take whatever actions are necessary to respond to the emergency. Within two business days after the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and otherwise fully comply with the requirements of this Chapter. If the City becomes aware of an emergency regarding a registrant's facilities, the Department may attempt to contact the local representative of each registrant affected. The City may take whatever action it deems necessary to protect the public safety as a result of the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(b) *Non-emergency situations.* Except in an emergency, any person who, without first having obtained the necessary permit, excavates a right-of-way must subsequently register and apply for an excavation

permit, and shall in addition to any penalties prescribed by ordinance, pay four times the normal fee for said permit, pay double all other fees required by this chapter or other chapters of the City Code, deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter. If a subsequent permit is denied or is not approved, the registrant shall discontinue and abandon its facilities and the Department may cause any offending conditions to be removed or corrected and the expense thereof charged to the person responsible.

Sec. 16-122. Supplementary notification.

If the excavation of the right-of-way begins later or ends sooner than the date given on the permit, the Permittee shall notify the Department of the accurate information as soon as this information is known.

Sec. 16-123. Location of facilities.

~~(a) *Undergrounding.* Unless in conflict with state or federal law, except when existing aboveground facilities are used, the installation of new facilities and replacement of old existing facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes and at registrant's own expense.~~

~~(ba)~~ *Corridors.* The Department may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue consistent with the Department's assignment.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the City for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

~~(eb)~~ *Limitation of space.* To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the Department may prohibit or limit the placement of new, replacement or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of Persons to occupy and use the right-of-way. In making such decisions, the Department/City shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

Sec. 16-124. Relocation of facilities.

Except as prohibited by State or Federal law, a registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently ~~remove and~~ relocate its facilities in the right-of-way whenever the Department requests such ~~removal and~~ relocation, and shall restore the right-of-way to the same condition it was in prior to said ~~removal or~~ relocation. The Department may make such request to prevent interference by the Company's facilities with (i) a present or future City use of the right-of-way, (ii) a public improvement undertaken by the City, ~~(iii) an economic development project in which the City has an interest or investment,~~ (iv) when the public health, safety and welfare require it, or (iv) when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.

Notwithstanding the foregoing, a person shall not be required to ~~remove or~~ relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person therefor.

Sec. 16-125. Interference with other facilities during municipal construction.

When the City performs work in the right-of-way and finds it necessary to maintain, support, shore, or move a registrant's facilities, the City shall notify the local representative. The registrant shall meet with the City's representative within 24-hours and coordinate the protection, maintenance, supporting, and/or shoring of the registrant's facilities. The registrant shall accomplish the needed work within 72 hours, unless the City agrees to a longer period. In the event that the registrant does not proceed to maintain, support, shore, or move its facilities, the City may arrange to do the work and bill the registrant for costs it incurs as well as damages of \$100 per day beyond the registrant's 72 hour deadline to accomplish the needed work, said bill to be paid within thirty (30) days.

Sec. 16-126. Indemnification.

By registering with the City, or by accepting a permit under this chapter, a registrant or Permittee, as the case may be, agrees to indemnify, defend, and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents (collective, "Indemnified Parties"), from and against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon an Indemnified Party for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the permittee's acts or omissions in the exercise of its rights under this permit, whether caused by or contributed to by the City or its agents or employees except in such cases where caused by the sole negligence or willful misconduct of the City.

Sec. 16-127. Abandoned facilities.

- (a) *Discontinued operations.* A registrant who discontinues its operations in the City must either:
- (1) Provide information satisfactory to the Department that the registrant's obligations for its facilities under this chapter have been lawfully assumed by another registrant; or
 - (2) Submit to the Department a proposal and instruments for dedication of its facilities to the City. If a registrant proceeds under this clause, the City may, at its option:
 - a. accept the dedication for all or a portion of the facilities; or
 - b. require the registrant, at its own expense, to remove the facilities in the right-of-way at ground or aboveground; or
 - c. require the registrant to post a bond or provide payment sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the facilities.

However, any registrant who has unusable and abandoned facilities in any right-of-way shall remove it from the right-of-way within two years, unless the Department waives this requirement.

(b) *Abandoned facilities.* Facilities of a registrant who fails to comply with Sec. 16-127 subd (a), and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned facilities ~~are~~ may be deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the City may, at its option (i) abate the nuisance, (ii) take possession of the facilities, and/or (iii) require removal of the facilities by the registrant, or the registrant's successor in interest.

(c) *Public utilities.* This section shall not apply to a Public Utility that is required to follow the provisions of Wis. Stat. § 196.81.

Sec. 16-128. Reservation of regulatory and police powers.

The City, by granting of a permit to excavate, obstruct and/or occupy the right-of-way, or by registering a person under this chapter does not surrender or to any extent lose, waive, impair, or the lawful powers and rights,

which it has now or maybe hereafter granted to the City under the Constitution and statutes of the State of Wisconsin to regulate the use of the right-of-way by the Permittee; and the Permittee by its acceptance of a permit to excavate, obstruct and/or occupy the right-of-way or of registration under this chapter agrees that all lawful powers an rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Permittee or registrant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general law, and ordinances enacted by the City pursuant to such powers.

Sec. 16-129. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or constitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Secs. 16-130. to 16-150. Reserved.

J:\Attorney\WORD\Jamie\Ordinances\2016 Ords\Right-of-Way Management Ord 12-19-16.doc



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Effective Date:

CITY OF APPLETON SIDEWALK PAINTING POLICY For SAFE ROUTES TO SCHOOL

The objective of this policy is to establish the guidelines in which sidewalks may be painted in Appleton. This policy does not apply to sidewalk painting for utility locates or for temporary sidewalk chalk. Requests for painting sidewalks and trails within City Parks and other City-owned property shall be directed to the Parks, Recreation & Facilities Management Director.

GUIDELINES

1. Sidewalk painting is only allowed to identify official safe routes to school.
2. Sidewalk painting requires a Street Occupancy Permit through the Department of Public Works and associated fee as established by Council.
3. The Principal of the requesting school must sign the Street Occupancy Permit Application Form.
4. Applicant is responsible for notifying all affected property owners along proposed route.
5. The Department of Public Works shall be provided a map of the proposed sidewalk to be painted, name and type of painting material, symbol and maintenance plan as part of the application process.
6. Symbol shall not exceed a size of 8" x 8".
7. No advertising may be part of the symbol painted on the sidewalk.
8. Any symbols not maintained must be removed by Applicant in a method approved by the Department of Public Works.
9. All applications will be reviewed pursuant to standards on file with the Department of Public Works.

APPEAL PROCESS

Anyone denied a Street Occupancy Permit for painting sidewalks may appeal the decision to the Common Council through the Municipal Services Committee.

ENFORCEMENT

This Policy will be enforced by City staff. Any school not following the guidelines established above may lose the right for said sidewalk painting within the street right-of-way.

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

Council Approved: ~~October 1, 2014~~

CITY OF APPLETON SNOW REMOVAL POLICY

The following policy be adopted to be in effect until revised or superseded.

A. Snow shall be removed from the roadways and alleys according to the following list:

LOCATION	FROM	TO	CLASS
S. Allen Street	E. Lawrence Street	E. Kimball Street	A
N. & S. Appleton Street	W. Prospect Avenue	W. Pacific Street	A
E. & W. College Ave.	N. Drew Street	N. Story Street	A
N. Division Street	W. College Avenue	railroad tracks	A
N. & S. Durkee Street	s/o E. Lawrence Street	E. Franklin Street	A
W. Eighth Street (N/side)	S. Walnut Street	S. Elm Street	A
S. Elm Street	W. Eighth Street	W. Lawrence Street	A
E. & W. Harris Street	N. Morrison Street	N. Appleton Street	A
E. Johnston Street	N. Durkee Street	N. Morrison Street	A
E. Kimball Street	S. Oak Morrison Street	S. Allen Street	A
E. & W. Lawrence Street	S. Morrison Street	S. Memorial Drive	A
S. Memorial Drive	Fox River	W. College Avenue	A
N. & S. Morrison Street	E. Lawrence Street	E. Franklin Street	A
N. Morrison Street	E. Franklin Street	E. Harris Street	A
S. Morrison Street	E. Lawrence Street	E. Kimball Street	A
S. Oak Street	E. Lawrence Street	E. Kimball Street	A
S. Oneida Street	Olde Oneida Street	E. Roeland Avenue	A
S. Oneida Street	E. Lawrence Street	E. College Avenue	A
N. Oneida Street	s/o Washington Street	E. Pacific Street	A
N. Richmond Street	W. College Avenue	W. Marquette Street	A

LOCATION	FROM	TO	CLASS
N. Richmond Street	W. Marquette Street	W. Northland Avenue	A
N. Richmond Street	W. Northland Avenue	Ridgeview Drive	A
W. Sixth Street (N/side)	S. Walnut Street	S. Elm Street	A
Soldiers Square	S. Morrison Street	S. Oneida Street	A
N. & S. State Street	railroad tracks	W. Lawrence Street	A
N. & S. Superior Street	W. Lawrence Street	railroad tracks	A
N. & S. Walnut Street	W. Sixth Eighth Street	W. Johnston Street	A
E. & W. Washington St	N. Drew Street	N. Division Street	A
E. & W. Wisconsin Ave	Rankin Street	N. Badger Avenue	A

The following are the charges for street snow removal:

80 cents per lineal foot with the following exceptions.
50 cents per lineal foot for alleys.

- B. All other streets are removed based on need and staff availability. The priority 2 & 3 snow removal lists are on file at the Municipal Services Building.
- C. Snow Plowing and Removal from any City Parking Lot shall be charged to Parking Meter Account based upon actual cost.
- D. Where snow is removed at the election of the City, no charge shall be made for property zoned and used residentially.



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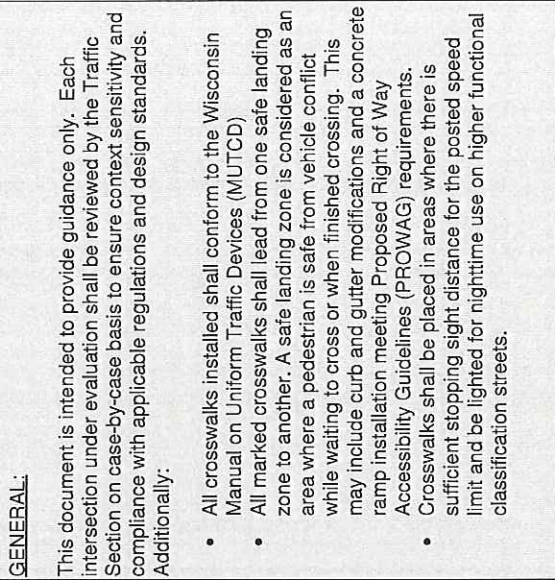
DEPARTMENT OF PUBLIC WORKS
Engineering Division – Traffic Section
2625 E. Glendale Avenue
Appleton, WI 54911
TEL (920) 832-5580
FAX (920) 832-5570

Approved by Council on x/xx/xx

CROSSWALK MARKING/ENHANCEMENT POLICY
for
UNCONTROLLED CROSSINGS AT INTERSECTIONS

It shall be the standard practice of the City of Appleton to evaluate the appropriateness of marked crosswalks (and associated treatments) at intersections based on the guidance set forth herein and on the attached, utilizing the most current research conducted by the Federal Highway Administration (FHWA) and the National Cooperative Highway Research Program (NCHRP).

All requests to mark an intersection crosswalk will be reviewed by the Traffic Section. Any requests that are administratively denied may appeal the decision to the Common Council through the Municipal Services Committee. In all cases, intersection crosswalks shall be signed and marked in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) and the Wisconsin Supplement to the MUTCD.



¹ As defined by AASHTO
² Actual treatments to be determined by the Traffic Section on a case-by-case basis.
³ Represents minimum treatments. Actual treatments to be determined by the Traffic Section on a case-by-case basis.
⁴ Examples of "enhanced crossings" include: traffic signal, pedestrian hybrid beacon, pedestrian-actuated RRFB systems, and other substantial treatments, or combination of treatments.



DEPARTMENT OF PUBLIC WORKS

Engineering Division
100 North Appleton Street
Appleton, WI 54911
(920) 832-6474
FAX (920) 832-6489

Implementation Date: March 6, 2013

CITY OF APPLETON
SNOW EMERGENCY RAMP PARKING POLICY

During Class III Snow Emergencies declared by the City of Appleton, City – owned parking ramps will have FREE parking until all snow and meter bags are removed from College Avenue.



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DEPARTMENT OF PUBLIC WORKS
Engineering Division – Traffic Section
2625 E. Glendale Avenue
Appleton, WI 54911
TEL (920) 832-5580
FAX (920) 832-5570

To: Municipal Services Committee
From: Eric S. Lom, City Traffic Engineer
Date: January 19, 2017
Re: Proposed Traffic Signal Removals at Franklin/Superior & Franklin/Oneida Intersections
(Follow-up to a 90-day trial)

Late last year, the Traffic Section initiated a 90-day trial to evaluate the effect of removing the traffic signals at the Franklin/Superior & Franklin/Oneida intersections. These signals were found to be "unwarranted" as a part of the Council-approved *Downtown Mobility Study*.

Since these signals were placed into red/yellow flash mode (in order to simulate a two-way stop condition), we have received little in the way of feedback. The comments we *have* received have been almost exclusively positive, noting the improved convenience of not having to unnecessarily wait for traffic signals as drivers navigate the downtown area.

Our review has shown there have been no reported crashes at these intersections during the study period.

As such, we recommend removal of the traffic signals and installation of two-way stop control as described below.

The following ordinance action is required:

1. **Create:** "Remove the traffic signal at the intersection of Franklin Street and Superior Street."
2. **Create:** "Remove the traffic signal at the intersection of Franklin Street and Oneida Street."
3. **Create:** "Install stop signs on Superior Street at Franklin Street"
4. **Create:** "Install stop signs on Oneida Street at Franklin Street"



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DEPARTMENT OF PUBLIC WORKS

Engineering Division
100 North Appleton Street
Appleton, WI 54911
(920) 832-6474
FAX (920) 832-6489

(Effective January 1, 2017)

FEE SCHEDULES DEPARTMENT OF PUBLIC WORKS

Description	Current Fee	Taxable Yes/No	Total	Last Update
MAPS				
City Map	Free			
Quarter Section Set	\$ 175.00	No		2001
Quarter Section Sheet	Free	No		2002
PERMITS				
*Meter Bags (per bag/day)	\$ 9.00 (\$8.57 + .43)	YES	\$ 9.00	2011
Ramp Permits - monthly (Red, Yellow, Green Ramps)	\$ 30.00/month	Yes, add \$1.50	\$ 31.50	2016
Ramp Permits - quarterly (Blue Ramp)	\$ 105.00/quarter	Yes, add \$5.25	\$ 110.25	2016
Access Card Replacement (Broken)	\$ 3.00	Yes, add \$0.15	\$ 3.15	
Daily Hangtag (Blue Ramp)	\$ 3.00	Yes, add \$0.15	\$ 3.15	2008
Lost or Stolen Permit/ Blue Ramp Permit	Pro-rated based on days remaining in quarter	Yes, amount varies	Varies	2011
Private Directional Signs (Annual Renewal Fee)	\$ 20.00	No	\$ 20.00	2004
	\$ 10.00	No	\$ 10.00	
Block Party Permit	\$ 15.00	No	\$ 15.00	2011
Street Excavation Permit	\$ 40.00	No		2011
Street Occupancy (Annual/City-wide)	\$ 250.00	No		2011
Street Occupancy (Temporary/Permanent)	\$ 40.00	No		2011
Snow Removal Hazard Charge	\$ 75.00 + \$.40 per foot over 100 feet	No		2000
Re-staking / Re-inspection Fee	\$40.00	No		2011

* No Meter bag fee is charged for City sponsored Special events.

Description	Current Fee	Taxable Yes/No	Total	Last Update
OPERATIONS				
Grass Clippings	\$ 4.00/bag	No		2013
	\$ 40.00/card	No		2013
Appliance Tags (Curbside PU) Freon Non-Freon	\$ 25.00	No		2004
	\$ 20.00	No		2004
Appliance Site Drop-Off Freon Non-Freon	\$ 20.00	No		2004
	\$ 15.00	No		2004
Overflow Tags	\$ 4.00/bag	No		2013
Overflow Move In/Out (Curbside Pick-up)	\$ 75.00	No		2013
Weight Limit Permits	\$ 50.00 per address	No		
Tires	\$ 5.00/tire 16" or smaller Limit of four per household	No		2013
	\$ 5.00/tire larger than 16" Limit of four per household	No		2013
Electronics Removal	\$ 75.00	No		2013
Brush Removal (Curbside)	\$ 75.00	No		2013
AUTOMATED				
35 – 40 gallon garbage cart	No Charge	No		2011
60 – 65 gallon garbage cart	\$ 0.50/week	No		2011
90 – 95 gallon garbage cart (if add'l container is needed, \$1.00 charged per each 30- gallon container)	\$ 1.30/week	No		2008
MISCELLANEOUS				
Sign Permit	\$ 40.00/Sign	No		2017
New Elec. Contractor License	\$ 50.00 (Renewal: \$40.00/year)	No		2017
New Electrical Master License	\$ 40.00	No		2017
New HVAC License	\$ 50.00 (Renewal:\$50.00/5-years)	No		2009
Board of Appeals	\$ 125.00	No		2009
Board of Building Inspection	\$ 45.00	No		2009
Paving Permit	\$ 40.00	No		2017

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE
CITY OF APPLETON AND CALUMET COUNTY
TO PROVIDE FOR TRAFFIC SIGNAL RELATED SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into as of the date appearing at the end of this Agreement ("**Effective Date**") by and between the CITY OF APPLETON, with a business address of 100 North Appleton Street, Appleton, WI 54911 ("**City**"), and CALUMET COUNTY, with a business address of 241 E. Chestnut St., Chilton, WI 53014 ("**County**"). The purpose of this Agreement is to define the services the City shall provide to the County relating to a traffic signal located at the intersection of County Road KK and County Road N in Calumet County ("**traffic signal**"). The City and the County may be singularly referred to herein as a "**party**" or jointly referred to as the "**parties**." 206

RECITALS

WHEREAS, the Parties wish to enter into an agreement pursuant to the authority granted to them in Wis. Stats. § 66.0301 whereby the City will service a traffic signal located in Calumet County; and

WHEREAS, the City has the means and ability to efficiently service the traffic signal; and

WHEREAS, the County desires to have the City service the traffic signal as it will be cost effective and time-saving to the County; and

WHEREAS, this Agreement may bind the Parties for the length of time herein specified;

IT IS NOW, THEREFORE, in consideration of the foregoing, that the parties agree as follows:

**ARTICLE I
TERM**

1.1 **Term.** This Agreement shall become binding on the Effective Date. The Agreement shall have no expiration or termination date but may be terminated by either party pursuant to the Section 1.2 below.

1.2 **Termination.** Either party may terminate this agreement at any time and for any reason by giving thirty (30) calendar days written notice of cancellation to the other party.

**ARTICLE II
SERVICES**

2.1 **Services.** The City shall provide the County the following services: routine repairs and electrical maintenance work, non-routine electrical work, and technical assistance.

2.2 **Routine Repairs and Electrical Maintenance Work.** City electrical crews will perform required routine repairs and electrical maintenance work on the specified traffic signal upon the request of the County. Common examples of this category of work are LED relamping and cleaning; repairs to above or below-ground facilities as necessary as a result of vehicular collisions, weather, and construction damage; repairs necessary as a result of normal equipment malfunctions or failures; and traffic signal controller programming to implement minor timing or operational changes not requiring technical assistance.

2.3 Non-Routine Electrical Work. The City will perform non-routine electrical work on the traffic signal as the City's staffing permits upon the written request of the County. Examples are special projects, i.e., adding or upgrading equipment, adding turn indications, street lights, pull boxes, vehicle detection loops; and upgrading control cabinets, controllers, poles or signal heads.

2.4 Technical Assistance. The City will review traffic signal construction plans and specifications; assist in field location, laying out, controller programming, and startup of new traffic signals; recommend and implement signal timing and operational changes; and complete various traffic engineering studies based on data gathered by the County as City staff time permits.

ARTICLE III FEES AND PAYMENT

3.1 Fees. The County will pay the City a guaranteed annual minimum of \$1,875 per signal for the routine repairs and electrical maintenance work. Labor and equipment charges will accrue toward this guaranteed minimum on the following basis:

3.1.1 Electrical maintenance truck time and other equipment time at the current City rate per hour plus mileage when charged.

3.1.2 Labor cost at the current hourly rate plus fringe benefits.

3.1.3 Other normal administrative and small tool costs.

3.1.4 Should the labor and equipment charges for routine repairs and equipment charges exceed the guaranteed minimum, the City will bill the excess as per above.

3.2 Non-Routine Electrical Work Fees. The County will pay for such work on the following basis (this work will not accrue toward the guaranteed minimum):

3.2.1 Electrical maintenance truck time and other equipment time at the current City rate per hour plus mileage when charged.

3.2.2 Labor cost at the City's hourly rate plus fringe benefits.

3.2.3 Other normal administrative and small tool costs.

3.2.4 All bills will be generated by project and will include a description of work, hours worked and party requesting work.

3.3 Technical Assistance Fees. The County will pay for this work on the following basis (this work will not accrue toward the guaranteed minimum):

3.3.1 Labor costs at the current rate plus fringe benefits.

3.3.2 All bills will be generated monthly and include a description of work, hours worked and

the party requesting work.

- 3.4 Parts, Materials, Subcontractor, and Third-party Rental Fees. In all cases, parts, materials, subcontractor, and third-party rental fees will be billed to the County at the City's actual cost plus any applicable fees.

ARTICLE IV ADDITIONAL PROVISIONS

- 4.1 Intersection Covered by this Agreement. This agreement pertains solely to the intersection of County Road KK and County Road N and any additional intersections mutually agreed to in writing by the parties.
- 4.2 Other Intersections. The County agrees that all future signalized intersections constructed during the time this agreement is in force will be constructed in compliance with the City's specifications, and to relocate certain existing traffic signal bases/standards as requested by the City to increase safety and minimize the number of knockdowns.
- 4.3 No Assignment. No party to this Agreement may assign its interest in this Agreement to any other entity or individual.
- 4.4 Entire Agreement; Rules of Construction. The parties acknowledge and agree that this Agreement, including the recitals which are incorporated into and made a part of this Agreement, expresses the entire agreement between the Parties as to the subject matter of this Agreement, and that this Agreement replaces and supersedes any prior negotiations and agreements, written or oral. The parties further acknowledge and agree that each party has been adequately and fully represented in connection with the negotiation and execution of this Agreement, and that, accordingly, rules of interpretation that signify that an agreement shall be construed against the drafter shall not apply.
- 4.5 Captions. The captions or headings in this Agreement are for convenience and in no way define, limit, or describe the scope or intent of the provisions of this Agreement.
- 4.6 Governing Law. The laws of the State of Wisconsin shall govern the interpretation and enforcement of this Agreement. Venue over any action brought under this Agreement will lie in the Circuit Court for Outagamie County.
- 4.7 Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures were on the same instrument.
- 4.8 No Third-party Beneficiaries. This Agreement is entered into for the sole and exclusive benefit of the parties. No third party (including, without limitation, any employees of the parties) shall have, obtain, or derive from this Agreement any rights or other benefits or interests, under law, in equity, or otherwise.
- 4.9 No Joint Venture. Nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture between the parties.

- 4.10 Exculpatory Provision. The parties expressly acknowledge and agree that, anything herein to the contrary notwithstanding, that no officer, director, employee, agent, or official (elected or appointed) of any party shall have any personal liability or obligation arising out of this Agreement, and no party shall make any claim to the contrary.
- 4.11 No Waiver. No failure to exercise, and no delay in exercising, any right, power, or remedy under this Agreement on the part of any Party shall operate as a waiver of such right, power, or remedy, nor shall any single or partial exercise of any right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided therein. A waiver of any covenant, term, or condition contained in this Agreement shall not be construed as a waiver of any, subsequent breach of the same covenant, term, or condition.
- 4.12 Notice. For the purpose of this Agreement, the term "notice" shall mean notice in writing, provided in person or sent to the other party by United States Certified Mail or other mail delivery that provides proof of mailing and delivery, to the address listed above unless an alternate method of service is agreed to between the parties.
- 4.13 Severability. The terms of this Agreement are severable and any determination by any court or agency having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part shall not affect the remainder of the Agreement.
- 4.14 INDEMNIFICATION. EACH PARTY RETAINS FOR ITSELF ALL LEGAL RESPONSIBILITY FOR ANY INJURIES, CLAIMS, OR LOSSES ARISING FROM OR CAUSED BY THE ACTS OR OMISSIONS OF ITS AGENTS OR EMPLOYEES ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT. NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS AN ASSUMPTION OR INDEMNIFICATION BY ONE PARTY OF ANY LEGAL LIABILITY OF THE OTHER PARTY. THE OBLIGATIONS OF THE PARTIES UNDER THIS PROVISION SHALL BE SUBJECT TO THE LIMITATIONS SET FORTH IN WIS. STAT. § 893.80 AND WIS. STAT. § 895.46, AND SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

(Signature Page to Follow)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the _____ day of _____, 201__.

CITY OF APPLETON

Witness: _____

Printed Name: _____

By: _____

Timothy M. Hanna, Mayor

Witness: _____

Printed Name: _____

By: _____

Kami Lynch, City Clerk

Provision has been made to pay the liability that will accrue under this contract.

Approved as to form:

Anthony D. Saucerman, Finance Director

James P. Walsh, City Attorney

CALUMET COUNTY

Witness: Patricia K. Winkler

Printed Name: Patricia K. Winkler

By: Todd M. Romenesko

Printed Name: Todd M. Romenesko

Title: County Administrator

Witness: _____

Printed Name: _____

By: _____

Printed Name: _____

Title: _____

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Department of Public Works Inspections Division

Permit Summary Count YTD Comparison

01/01/16 Thru 12/31/16

Report Date: 1/3/2017



Permit Type	Year Issued	Permit Count	Total Estimated Cost	Total Receipt Amount
BUILDING	2015	1,014	144,450,267	366,746.55
	2016	981	85,085,951	329,557.63
		-3.25 %	-41.10 %	-10.14 %
DISPLAY SIGN	2015	153	1,298,790	4,660.00
	2016	171	1,243,645	5,160.00
		11.76 %	-4.25 %	10.73 %
ELECTRICAL	2015	948	9,828,573	124,798.12
	2016	962	14,687,093	146,232.98
		1.48 %	49.43 %	17.18 %
EROSION CNTL	2015	48		6,400.01
	2016	49		6,010.00
		2.08 %	%	-6.09 %
HEATING	2015	756	14,927,723	64,563.64
	2016	773	14,824,872	65,341.04
		2.25 %	-0.69 %	1.20 %
PLAN REVIEW	2015	114		48,025.00
	2016	122		41,975.85
		7.02 %	%	-12.60 %
PLUMBING	2015	511	6,583,303	55,716.00
	2016	501	6,695,006	46,463.01
		-1.96 %	1.70 %	-16.61 %
SEWER	2015	203	1,976,894	18,218.00
	2016	222	1,849,915	18,295.01
		9.36 %	-6.42 %	0.42 %
WELL	2015	5		150.00
	2016	4		120.00
		-20.00 %	%	-20.00 %

Department of Public Works Inspections Division

Permit Summary Count YTD Comparison

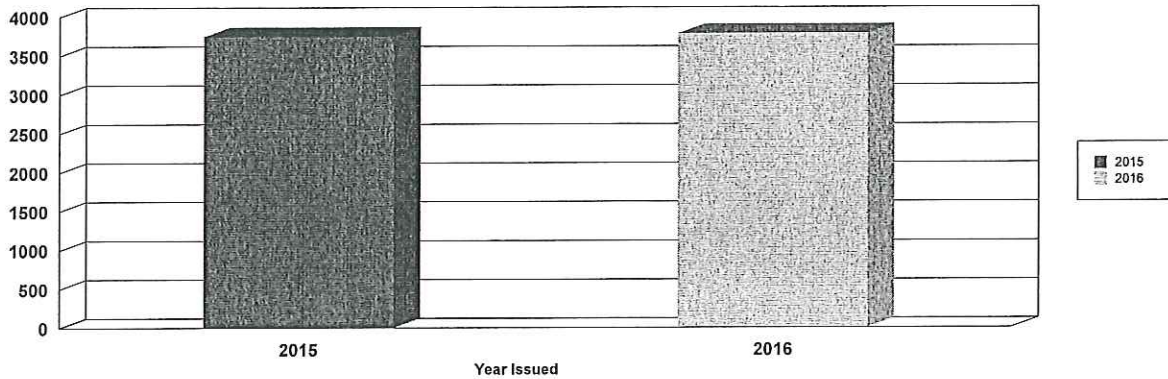
01/01/16 Thru 12/31/16

Report Date: 1/3/2017

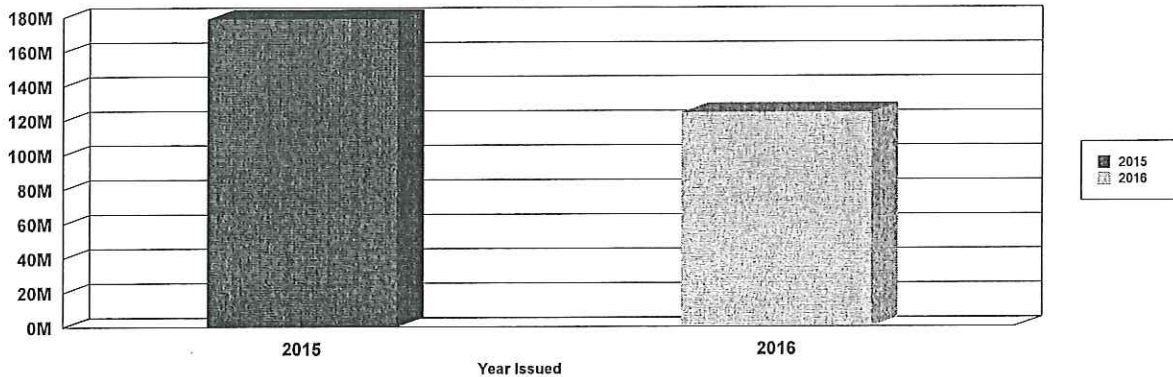


	2015	2016
Permits	3752	3785
Estimated Cost	179,065,550.00	124,386,482.00
Receipt Amount	689,277.32	659,155.52

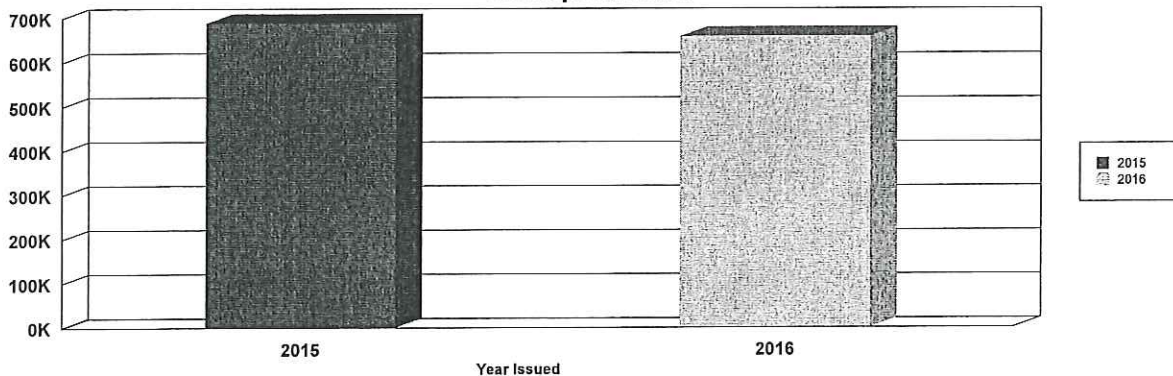
Number of Permits



Estimated Cost



Receipt Amount



as to obstruct or unreasonably interfere with the free passage of pedestrians, motor vehicles or other modes of travel. No person shall stand or remain at or near the entrance to any public or private building in such a manner as to annoy persons entering or leaving or passing such entrance. No person shall stand, sit, lie, remain or otherwise occupy any motor vehicle without permission of the owner.

(b) No kiosk, bulletin board or other decorative object shall be placed upon the street right-of-way except upon benches or other seating facilities provided for such purposes by the City.

(c) Sandwich board/temporary signs may be placed in the street right-of-way in conformance with the City of Appleton Sandwich Board/Temporary Sign Policy. (Code 1965, §5.07(1)(d), Ord 164-07, §1, 12-25-07)

Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18

Sec. 16-10. Snow and ice removal.

(a) Every person shall, no later than thirty-six (36) hours following cessation of a snowfall, remove all snow and/or ice from the entire width of the sidewalk along the entire perimeter of the premises owned or occupied by him, including any handicap access ramps along the perimeter of the premises; provided that, immediately after the accumulation of ice on such sidewalk, it shall be treated with sand, salt or other substance to prevent it from being slippery. The ice shall continue to be so treated in such a manner as to prevent the ice from being dangerous until it can be removed and shall then be promptly removed. If the owner or occupant of such premises shall fail to remove and keep removed, such snow and ice or to sprinkle a sidewalk as required, the work shall be done under the direction of the Common Council and the expenses thereof made a special tax upon the lot along the entire perimeter of where such work was done.

(b) No person shall remove or cause to be removed any snow or ice from his premises, residence, parking lot, parking area, business property or other area onto any public right-of-way or property. Snow removed from public sidewalks shall not be stored in any manner which will obstruct or limit vehicular or pedestrian vision, movement or access. Snow accumulations on sidewalks, handicap ramps or driveway aprons resulting from street snow plowing operations shall be removed by the owner of the abutting premises in accordance with the provisions of this section. In those instances where insufficient space exists between the sidewalk and street for the storage of all snow removed, it shall be stored on the abutting premises.

(c) The deposit of any snow or ice upon any sidewalk alley or street of the city contrary to the provisions of this

section is a nuisance, and in addition to the penalty provided for violation of this chapter, the City may summarily remove any snow or ice so deposited and cause the cost of the removal to be charged to the owner of the property from which the snow or ice has been removed. (Code 1965, §5.10; Ord 155-10, §1, 10-26-10; Ord 98-13, §1, 11-26-13)

Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 16-11. Compliance with City plans and specifications.

All streets and alleys shall be graded, graveled, paved or improved, all sidewalks shall be constructed or rebuilt, and all underground utilities in public streets, alleys and public grounds, all bridges, and all other public works of any kind whatever shall be built, constructed, erected or completed according to the plans and specifications kept on file in the office of the Director of Public Works. Such work shall be done in a manner and of the materials the specifications prescribe. Said work shall be completed in accordance with the requirements set forth in the City's *Temporary Traffic Control Manual for Street Construction and Maintenance Operations in the City of Appleton*, latest edition.

(Code 1965, §5.06; Ord 143-05, §1, 12-13-05)

Sec. 16-12. Work in public right-of-way – permit.

(a) **Administrative authority.** Permits shall be issued by the Engineering Division of the Department of Public Works.

(b) Fee; commencement of work without permit.

(1) An established permit fee in the amount which is on file in the Department of Public Works shall be paid for each permit issued under this section. If work is commenced before a permit is obtained and the permit request is denied, the Director of Public Works shall order the work ceased or the condition removed until a permit is obtained, for which the applicant shall pay a fee of four (4) times the established fee.

(2) If a permit is denied, the Director of Public Works or the Common Council may cause any offending conditions to be removed or corrected and the expense thereof charged to the person responsible.

(c) **Application; issuance.** Permits may be applied for on forms provided in the Department of Public Works. Permits will be issued after the necessary bond, certificate of insurance and Common Council authorization have been

