



# City of Appleton

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

## Meeting Agenda - Final-revised Common Council

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Wednesday, February 21, 2018

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  
[18-0220](#) Common Council Meeting Minutes of February 7, 2018  
**Attachments:** [CC Minutes 2-7-18.pdf](#)
- H. BUSINESS PRESENTED BY THE MAYOR  
[18-0222](#) Appointment to the Fox Cities Transit Commission  
**Attachments:** [FCTC Appointment Letter 2-21-18.pdf](#)
- I. PUBLIC HEARINGS
- J. SPECIAL RESOLUTIONS  
[18-0219](#) Resolution Authorizing the Execution and Delivery of Documents related to the Fox Cities Exhibition Center project  
**Attachments:** [Appleton RDA 2018 FCEC - Municipal Authorizing Resolution \(Appleton\).pdf](#)  
[Appleton RDA 2018 FCEC - Amended and Restated Cooperation Agreement.pdf](#)  
[Appleton RDA 2018 FCEC 1st Amend. to AR Room Tax Commission and Tourist Tax Commission](#)  
[Appleton RDA 2018 FCEC- Pledge and Security Agreement.pdf](#)
- K. ESTABLISH ORDER OF THE DAY

## L. COMMITTEE REPORTS

## 1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[18-0191](#) Install All-Way Stop Control at the Carpenter Street/Roeland Avenue Intersection.

**Attachments:** [Carpenter Street-Roeland Avenue intersection.pdf](#)

**Legislative History**

|         |                              |                          |
|---------|------------------------------|--------------------------|
| 2/12/18 | Municipal Services Committee | recommended for approval |
|---------|------------------------------|--------------------------|

## 2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[18-0140](#) Operator's License application of Michael S. Eisch, 607 W. 7th Street.

**Attachments:** [Michael S. Eisch.pdf](#)

[SL Denial 2-14-18.pdf](#)

**Legislative History**

|         |                                |                        |
|---------|--------------------------------|------------------------|
| 2/14/18 | Safety and Licensing Committee | recommended for denial |
|---------|--------------------------------|------------------------|

*Mr. Eisch was in attendance and addressed the Committee.*

[18-0143](#) Reserve "Class B" Beer/Liquor License application of Lou's Brew Cafe and Lounge, Inc. d/b/a Lou's Brew, Laura A. Loukidis, Agent, 233 E. College Ave., contingent upon approval from all departments.

**Attachments:** [Lous Brew application.pdf](#)

**Legislative History**

|         |                                |                          |
|---------|--------------------------------|--------------------------|
| 2/14/18 | Safety and Licensing Committee | recommended for approval |
|---------|--------------------------------|--------------------------|

[18-0146](#) Pawnbroker License Renewal application of JGB LLC d/b/a Mister Money, Gregory A. Baer, Applicant, 1933B N. Richmond St., contingent upon approval from all departments.

**Legislative History**

|         |                                |                          |
|---------|--------------------------------|--------------------------|
| 2/14/18 | Safety and Licensing Committee | recommended for approval |
|---------|--------------------------------|--------------------------|

[18-0148](#) "Class B" Beer/Liquor License application of THBJ Investments, LLC d/b/a Mill Creek Tavern, Bruce A. Hawley, Agent, 417 W. College Ave., contingent upon approval from all departments.

**Attachments:** [Mill Creek Tavern application.pdf](#)

**Legislative History**

2/14/18      Safety and Licensing      recommended for approval  
Committee

[18-0195](#)      Special Class "B" Beer/Wine License application of Appleton Downtown Inc, Jennifer L. Stephany, Person in Charge, for Summer Concerts in Houdini Plaza, June 7, 2018 through August 30, 2018, contingent upon approval from all departments.

**Attachments:** [ADI-Summer Concert.pdf](#)

**Legislative History**

2/14/18      Safety and Licensing      recommended for approval  
Committee

[18-0196](#)      Special Class "B" Beer/Wine License application of Appleton Downtown Inc, Jennifer L. Stephany, Person in Charge, for Oktoberfest, College Avenue from Richmond Street to Lawe Street, September 29, 2018, contingent upon approval from all departments.

**Attachments:** [ADI-Oktoberfest.pdf](#)

**Legislative History**

2/14/18      Safety and Licensing      recommended for approval  
Committee

[18-0158](#)      Operator's Licenses

**Attachments:** [Operator's Licenses for 2-14-18 S&L.pdf](#)

**Legislative History**

2/14/18      Safety and Licensing      recommended for approval  
Committee

[18-0181](#)      Reserve "Class B" Beer/Liquor License application of Player 2 LLC, d/b/a Player 2 Arcade Bar, Robert K. Sager II, Agent, 215 E. College Ave., contingent upon approval from all departments.

**Attachments:** [Player 2 Arcade Bar application.pdf](#)

**Legislative History**

2/14/18      Safety and Licensing      recommended for approval  
Committee

### 3. MINUTES OF THE CITY PLAN COMMISSION

[18-0154](#)      Request to approve the Applewood Properties, LLC/Ronald Viaene Annexation, located at 1712 E. Edgewood Drive currently in the Town of Grand Chute, as shown on the attached maps, subject to the stipulation in the attached staff report

**Attachments:** [StaffReport\\_Viaene\\_Annexation\\_For02-13-18.pdf](#)

**Legislative History**

2/13/18 City Plan Commission recommended for approval

[18-0155](#)

Request to approve the North Edgewood Estates Annexation, located east of N. French Road between E. Edgewood Drive and E. Broadway Drive currently in the Town of Grand Chute, as shown on the attached maps, subject to the stipulation in the attached staff report

**Attachments:** [StaffReport\\_NorthEdgewoodEstates\\_Annexation\\_For02-13-18.pdf](#)

**Legislative History**

2/13/18 City Plan Commission recommended for approval

[18-0156](#)

Request to approve the Leona Pond Annexation, a portion of 2136 E. Wisconsin Avenue currently in the Town of Grand Chute, as shown on the attached maps, subject to the stipulations in the attached staff report

**Attachments:** [StaffReport\\_Leona Pond\\_Annexation\\_For02-13-18.pdf](#)

**Legislative History**

2/13/18 City Plan Commission recommended for approval

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

**5. MINUTES OF THE FINANCE COMMITTEE**

[18-0179](#)

Request to approve the following 2018 Budget adjustment:

|                               |             |
|-------------------------------|-------------|
| Sanitary Sewer Reconstruction | - \$100,000 |
| Lift Station/Forcemain Design | +\$100,000  |

to provide funding for sanitary sewer lift station and forcemain design per North Edgewood Estate Development Agreement.

**Attachments:** [North Edgewood Estates.pdf](#)

**Legislative History**

2/12/18 Finance Committee recommended for approval

[18-0198](#)

Request to approve reimbursement to Developer of \$10,000 of sanitary sewer and watermain connection fees once eight (8) homes have been constructed in the Creekside Estates Development.

**Attachments:** [Creekside Estates.pdf](#)

**Legislative History**

2/12/18 Finance Committee recommended for approval



- [18-0200](#) Request to award contract to Chet Wesenberg Architect, LLC for design and engineering services for the Municipal Services Building locker room renovation project for a contract of \$43,315 and a contingency of 7% for a contract not to exceed \$46,347.

**Attachments:** [2017 MSB Locker Room Remodel Consultant Selection.pdf](#)

**Legislative History**

2/12/18 Finance Committee recommended for approval

- [18-0202](#) Request to award the Fire Station #5 2018 Roof Replacement project contract to Kaschak Roofing, Inc in the amount of \$114,900 with a contingency of 10% for a project total not to exceed \$126,390.

**Attachments:** [2018 Fire Station 5 Roof Replacement .pdf](#)

**Legislative History**

2/12/18 Finance Committee recommended for approval

- [18-0203](#) Request to award Unit W-18 Sewer & Water Main Reconstruction No. 2 to Kruczek Construction, Inc in the amount of \$1,323,323 with a 5% contingency of \$66,166 for a project total not to exceed \$1,389,489.

**Attachments:** [Award of Contract Unit W-18.pdf](#)

**Legislative History**

2/12/18 Finance Committee recommended for approval

- [18-0205](#) Request to approve Resolution for Reauthorization of Self Insurance.

**Attachments:** [Resolution Memo.pdf](#)

[Resolution for ReAuth of Self Ins.pdf](#)

**Legislative History**

2/12/18 Finance Committee recommended for approval

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

**7. MINUTES OF THE UTILITIES COMMITTEE**

- [18-0174](#) A Resolution authorizing the Department of Public Works to enter a Municipal Flood Control Grant agreement with the Wisconsin Department of Natural Resources for construction of the Leona Street Stormwater Pond.

**Attachments:** [Leona St Pond MFC Grant Resolution Memo for 02-13-2018 Util Cmte FINAL.p](#)

**Legislative History**

2/13/18 Utilities Committee recommended for approval

- [18-0175](#) A Resolution authorizing the Department of Public Works to enter an Urban Nonpoint Source & Storm Water Management Program Grant agreement with the Wisconsin Department of Natural Resources for construction of the Leona Street Stormwater Pond.

**Attachments:** [Leona St Pond UNPSSW Grant Resolution Memo for 02-13-2018 Util Cmte FIN](#)

**Legislative History**

2/13/18                      Utilities Committee                      recommended for approval

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

- [18-0215](#) Request to award Presidio the contract to purchase and implement a NetApp Storage system, backup equipment and software and disaster recovery application. The amount requested is \$500,000 for the project.

**Attachments:** [SAN-DR Memo 2-21-18.pdf](#)

- [18-0216](#) Request to approve changes to the Department of Public Works table of organization by reducing Laborer by one position, decrease Operator I by one position and increase Operator II by two positions.

**Attachments:** [DPW reorganization 2-21-18.pdf](#)

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

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

- [18-0166](#) Fox River House Noise Variance Request

**Attachments:** [Fox River House Noise Variance Request.pdf](#)

[Fox River House Noise Variance Email.pdf](#)

[Fox River House Noise Variance Email \(2\).pdf](#)

**Legislative History**

2/14/18                      Board of Health                      recommended for denial

**M. CONSOLIDATED ACTION ITEMS**

**N. ITEMS HELD**

**O. ORDINANCES**

[18-0218](#)

Ordinances 19-18 to 25-18

**Attachments:** [Ordinances going to Council 2-21-18.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

[18-0233](#)

The Common Council will go into closed session according to State Statute §19.85(e) for the purpose of discussions regarding deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified business, whenever competitive or bargaining reasons require a closed session concerning funding for the construction of the Exhibition Center and then reconvene into open 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, February 7, 2018

7:00 PM

Council Chambers

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A. CALL TO ORDER

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

B. INVOCATION

*The Invocation was offered by Alderperson Williams.*

C. PLEDGE OF ALLEGIANCE TO THE FLAG

D. ROLL CALL OF ALDERPERSONS

**Present:** 16 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt, Mayor Timothy Hanna, Alderperson Keir Dvorachek and Alderperson Bob Baker

E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

*City Attorney Walsh, City Clerk Lynch, Director of Community & Economic Development Harkness, Director of Finance Saucerman, Fire Chief Vander Wyst, Health Officer Eggebrecht, Library Director Rortvedt, Police Chief Thomas, Director of Parks, Recreation & Facilities Gazza, Director of Public Works Vandehey, and Diversity Coordinator Nelson.*

*The following were excused:  
Information Technology  
Human Resources  
Utilities  
Valley Transit*

F. PUBLIC PARTICIPATION

*There was no one signed up to speak during Public Participation.*

G. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[18-0147](#)

Common Council Meeting Minutes of January 17, 2018

**Attachments:**     [CC Minutes 1-17-18.pdf](#)**Aldersperson Baranowski moved, seconded by Aldersperson Konetzke, that the Minutes be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 15 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears, Aldersperson Chris Croatt, Aldersperson Keir Dvorachek and Aldersperson Bob Baker

**Excused:** 1 - Mayor Timothy Hanna

H. BUSINESS PRESENTED BY THE MAYOR

I. PUBLIC HEARINGS

J. SPECIAL RESOLUTIONS

K. ESTABLISH ORDER OF THE DAY

[18-0132](#)

Approve Resolution for Outagamie County Landfill Siting Negotiation Process.

**Attachments:**     [Resolution Outagamie Cty Landfill.pdf](#)  
                              [Map of proposed Northwest Landfill.pdf](#)

**Aldersperson Meltzer moved, seconded by Aldersperson Baranowski, that the Resolution be amended to reflect one representative to negotiate on behalf of the City of Appleton. Roll Call. Motion carried by the following vote:**

**Aye:** 15 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears, Aldersperson Chris Croatt, Aldersperson Keir Dvorachek and Aldersperson Bob Baker

**Abstained:** 1 - Mayor Timothy Hanna

**Aldersperson Baranowski moved, seconded by Aldersperson Croatt, that the Resolution be approved as amended. 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 Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt, Alderperson Keir Dvorachek and Alderperson Bob Baker

**Abstained:** 1 - Mayor Timothy Hanna

## L. COMMITTEE REPORTS

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

Alderperson Croatt moved, Alderperson Coenen seconded, to approve the balance of the agenda. The 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 Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt, Alderperson Keir Dvorachek and Alderperson Bob Baker

**Abstained:** 1 - Mayor Timothy Hanna

## 1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

### [18-0131](#)

Approve the following parking changes related to the "East Residential Zone" near Lawrence University:

\*No parking on the west side of Rankin Street between College Avenue and Alton Street.

\*No parking on the north side of South Street from South Court to the first driveway west of South Court.

**Attachments:** [Parking changes East Residential Zone.pdf](#)

This Report Action Item was approved

[18-0133](#)

Appleton Street, from 200' south of Lawrence Street to College Avenue, be reconstructed with concrete pavement and curb and gutter to a width of 45' from back of curb to back of curb. The reconstruction of Appleton Street will implement concepts from the approved Downtown Mobility Study. Appleton Street will be converted from its existing one-way, southbound only designation, into a two-way street. The new, two-way, Appleton Street will consist of 1 travel lane, in each direction, bike lanes along both sides of the street, and dedicated turn lanes at Lawrence Street and College Avenue. On-street parking along this portion of Appleton Street will be eliminated as part of this reconstruction project. An indented loading zone will be constructed adjacent to Houdini Plaza.

**Attachments:** [Appleton St from 200' south of Lawrence St to College Ave.pdf](#)

**This Report Action Item was approved.**

[18-0134](#)

Request to postpone the Oneida Street Bridge/Appleton Street/Pedestrian Ramp/Stairs/Rocky Bleier Run and Jones Park Parking Lot Projects until we have further clarity on what may be developed on the Trinity Bluff Site.

**Attachments:** [Postpone projects related to Trinity Bluff Site.pdf](#)

**This Report Action Item was approved.**

[18-0135](#)

Approve proposed parking restriction on the 200 block of S. Rankin Street.

**Attachments:** [Parking restrictions-200 block of S. Rankin St.pdf](#)

**This Report Action Item was approved.**

[18-0136](#)

Approve proposed parking restriction on Rail Road near Derks Park.

**Attachments:** [Parking restrictions on Rail Rd near Derks Park.pdf](#)

**This Report Action Item was approved.**

[18-0137](#)

Install Stop Control on Locust Street at Fifth Street.

**Attachments:** [Intersection control Locust St-Fifth St.pdf](#)

**This Report Action Item was approved.**

[18-0138](#)

Install Stop Control on Madison Street at McKinley Street.

**Attachments:** [Intersection traffic control Madison St-McKinely St.pdf](#)

This Report Action Item was approved.

## 2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[18-0116](#)

Request to Approve Changes to Appleton Municipal Code Chapter 6

**Attachments:** [Chapter 06 Fire - Redlined \(Official Form\) 01-12-2018.pdf](#)  
[Chapter 06 Fire - Clean \(Official Form\) 01-12-2018.pdf](#)  
[Memo RE Proposed Changes to Chapter 6 .pdf](#)

This Report Action Item was approved.

[18-0092](#)

Operator's Licenses

**Attachments:** [Operator's Licenses for 1-24-18 S & L.pdf](#)

This Report Action Item was approved.

[18-0098](#)

"Class B" Beer/Liquor License application of DCMX LLC, d/b/a Gingerootz Asian Grille, Mylee Xiong, Agent, 2920 N. Ballard Rd., contingent upon approval from all departments.

**Attachments:** [Gingerootz Asian Grille application.pdf](#)

This Report Action Item was approved.

[18-0093](#)

"Class B" Beer/Liquor License application of Jong Seng Lee and Patria Lee Vang, d/b/a Shadows Food & Spirit, 211 S. Walter Ave., contingent upon approval from all departments.

**Attachments:** [Shadows Food & Spirit application.pdf](#)

This Report Action Item was approved.

[18-0094](#)

Secondhand Article Dealer License Renewal application of Active Bike & Fitness, Mark A. Fluette, Applicant, 1131 N. Badger Ave., contingent upon approval from all departments.

This Report Action Item was approved.



[18-0097](#)

"Class A" Beer/Liquor License - Change of Agent of Ultimate Mart LLC d/b/a Pick N Save #8187, Shane E. Fischer, Agent, 511 W. Calumet St., contingent upon approval from the Police Department.

This Report Action Item was approved.

### 3. MINUTES OF THE CITY PLAN COMMISSION

[18-0088](#)

Request to approve the Creekside Estates Final Plat as shown on the attached maps and subject to the attached conditions

**Attachments:** [Staff Report Creekside Estates Final Plat 1-23-18.pdf](#)

This Report Action Item was approved.

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

[18-0110](#)

Action Item: Request Approval of the Updated Athletic Facilities - Rental and Fee Schedule Policy

**Attachments:** [2018 Athletic Facilities Rental and Fee Schedule Policy Memo.doc](#)  
[2018 Athletic Facilities Policy - Redlined.pdf](#)  
[2018 Athletic Facilities Policy - FINAL.pdf](#)

This Report Action Item was approved.

### 5. MINUTES OF THE FINANCE COMMITTEE

[18-0119](#)

Request to award Unit T-18 Telulah Avenue Sewer & Water Main Reconstruction No. 1 to Kruczek Construction, Inc in the amount of \$1,477,778 with a 5% contingency of \$73,889 for a project total not to exceed \$1,551,667.

**Attachments:** [Award of Contract Unit T-18.pdf](#)

This Report Action Item was approved.

[18-0120](#)

Request to approve Finance Committee Report 1-P-18 for Sanitary Laterals

**Attachments:** [Report 1-P-18.pdf](#)

This Report Action Item was approved.

[18-0128](#)

Resolution introduced by Alderperson Baranowski at January 17, 2018 Common Council meeting relating to short-term loan to Appleton Redevelopment Authority for the construction of the Fox Cities Exhibition Center.

**Resolution #1-R-18**

*Submitted by: Alderperson Baranowski - District 5*

Whereas, the City of Appleton approved a short-term loan not to exceed \$31,000,000 to the Appleton Redevelopment Authority (ARA) for the construction of the Fox Cities Exhibition Center and,

Whereas, the short-term loan is to be repaid upon ARA's closing of long-term financing for the project and,

Whereas an estimate of the amount of interest income not received due to the amounts paid to fund the Fox Cities Exhibition Center, projecting through March 1, 2018, would be approximately \$237,500 therefore,

Be it resolved, the City of Appleton is repaid from the hotel room tax fund, upon ARA's closing of long-term financing for the project, any and all interest income it would have earned on the funds the City loaned to ARA for the Fox Cities Exhibition Center project.

**This Report Action Item was approved.**

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

[18-0090](#)

Request to approve recommended funding of \$15,000 for 2018 sponsorships for Appleton Downtown Inc. (ADI) programs as outlined in the attached documents

**Attachments:**     [Memo to CEDC on ADI Sponsorships 2018.pdf](#)  
                                 [Proposed City Sponsorships for ADI 2018.pdf](#)

**This Report Action Item was approved.**

**7. MINUTES OF THE UTILITIES COMMITTEE**

[18-0099](#)

Preliminary Resolution 1-P-18 for Sanitary Sewer Laterals be adopted and refer the matter to the Finance Committee to determine the assessment rate.

Attachments:     [1-P-18.pdf](#)

This Report Action Item was approved.

[18-0104](#)

Request to add Sanitary Sewer and Storm Sewer construction on Durkee Street between Atlantic Street and Summer Street to our 2018 Reconstruction Program.

Attachments:     [Durkee Street Sanitary Sewer and Storm Sewer Construction.pdf](#)

This Report Action Item was approved.

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

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

[18-0012](#)

Approve the Memorandum of Understanding Between The City of Appleton, Valley Transit and Community Care Inc. for Specialized Transportation Services for 2018

Attachments:     [2018 Contract Valley Transit and Community Care.pdf](#)

This Report Action Item was approved.

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

**M. CONSOLIDATED ACTION ITEMS**

[18-0150](#)

Consolidated Action Items  
18-0126 (Finance Committee)  
18-0117 (Safety & Licensing Committee)

This Report Action Item was approved.

[18-0126](#)

Request to apply for the FEMA FY17 Assistance to Firefighter's Grant for personal protective equipment

Attachments:     [Intent to Apply - FY2017 Assistance to Firefighter's Grant - 1-18-18.pdf](#)

This Report Action Item was approved.

[18-0117](#)

Request to Apply for the FEMA FY17 Assistance to Firefighter's Grant for Personal Protective Equipment

**This Report Action Item was approved.**

N. ITEMS HELD

O. ORDINANCES

[18-0149](#)

Ordinances 16-18 to 18-18

**Attachments:** [Ordinances going to Council 2-7-18.pdf](#)

**The Ordinances were approved.**

P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION

Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION

*Resolution #2-R-18*

*Submitted by: Edward S Baranowski*

*Date: February 7, 2018*

*Referred to: Attorney, Board of Health*

*Whereas, the City of Appleton's Municipal Code identifies noise as a serious hazard to the public health, welfare, safety and quality of life and,  
Whereas, the people have a right to an environment free from excessive sound that may jeopardize their health, welfare, or safety, or degrade the quality of life and,  
Whereas the Municipal Code states that no person shall operate, play or permit the operation or playing of any radio, television, phonograph, musical instrument, sound amplifier or similar device in such a manner as to create a noise disturbance and,  
Whereas as special variance permit may be issued upon request provided that the work producing such noise is necessary to promote the public health or welfare and reasonable steps are taken to keep such noise at the lowest practical level and,  
Whereas a variance may be issued for special events and similar gatherings, festivals, presentations and the like, which are limited in duration and are generally acceptable to the people of the community provided that precautions are taken to maintain the noises produced at the lowest practical level and,  
Whereas, Section 12-76 of the Municipal Code does not have a definition of Special Community Events, or what constitutes a Special Community Event along with it's make up in terms of, but not limited to, its frequency and its benefit to the community vs. an organization or business and,  
Whereas the Health Officer or designee, is authorized to issue a variance permit pursuant to the applicable section of the Municipal Code upon receiving a completed application therefore,*

*Be it resolved, prior to authorizing any further noise variances under the Municipal Code, the City Attorney's Office along with the Board of Health review and define what constitutes a Special Community Event along with it's make up in terms of, but not limited to, its frequency, its necessity to promote the public health and welfare, and its benefit to the community vs. an organization or business.*

R. OTHER COUNCIL BUSINESS

S. ADJOURN

**Aldersperson Baranowski moved, seconded by Aldersperson Dannecker, that the meeting be adjourned at 7:30 p.m. Roll Call. Motion carried by the following vote:**

**Aye:** 16 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears, Aldersperson Chris Croatt, Mayor Timothy Hanna, Aldersperson Keir Dvorachek and Aldersperson Bob Baker

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  
email: [mayor@appleton.org](mailto:mayor@appleton.org)

February 15, 2018

Members of the Common Council:

The following is being presented for your confirmation at the February 21 Council meeting:

**Fox Cities Transit Commission**

Appointment of one (1) member to fill the resigned term vacated by Sonia Barham:

DIANNE DEXTER

**3-year term to expire April 2018**

Dianne Dexter, a longtime resident of Appleton, graduated from Xavier High School in 1966. Diane spent many years employed with Thedacare in a variety of positions which helped her transition into caring for her elderly parents. During that time, Diane also worked part-time with Mac-Tel and with the City of Appleton dispatch for after-hour water main breaks.

Mrs. Dexter was a City of Appleton Election Worker for 15 years and has great interest in local government. She is a regular viewer of all council and committee meetings and would be honored if given the opportunity to serve on the Fox Cities Transit Commission.

It is with pleasure that I make this recommendation.

Sincerely,

TIMOTHY M. HANNA  
Mayor of Appleton

COMMON COUNCIL  
OF THE  
CITY OF APPLETON, WISCONSIN

February 21, 2018

Resolution No. N/A

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**Resolution Authorizing the Execution and Delivery of Documents  
relating to the Fox Cities Exhibition Center Project**

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WHEREAS, the City of Appleton, Wisconsin (the “**Municipality**”), certain other municipalities in the Fox Cities area (together with the Municipality, the “**Municipalities**”), the Redevelopment Authority of the City of Appleton, Wisconsin (the “**Authority**”), the Fox Cities Room Tax Commission (the “**Commission**”), and the Fox Cities Performing Arts Center, Inc. (the “**PAC**”) have entered into an Exhibition Center Cooperation Agreement, dated as of November 24, 2015 (the “**Original Cooperation Agreement**”), pursuant to which the Municipalities, the Authority, and the Commission agreed, among other things, to enact resolutions, ordinances, and all other municipal acts necessary to effect a 3% room tax (the “**Exhibition Center Room Tax**”), in addition to the room taxes then being collected, to be pledged to pay debt service on bonds to be issued by the Authority (the “**Bonds**”) to finance the construction and equipping of the Fox Cities Exhibition Center (the “**Exhibition Center**”) and related payments or deposits such as costs of issuance, a debt service reserve fund, a stabilization fund, and any capitalized interest; and

WHEREAS, the Municipality adopted an ordinance (the “**Room Tax Ordinance**”), that levied a 10% room tax (the “**Room Tax**”), which included the Exhibition Center Room Tax, restated other existing room tax percentage allocations, including the 2% PAC Room Tax (the “**PAC Room Tax**”) pledged to pay debt service on bonds issued by the Authority to finance or refinance the Fox Cities Performing Arts Center (the “**PAC Bonds**”), and set forth the priority of application of payments of the Room Tax; and

WHEREAS, in connection with the execution of the Original Cooperation Agreement, the Municipalities and the Commission also entered into an Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of November 24, 2015 (the “**Commission and Zone Agreement**”), to restate a prior agreement, to confirm the establishment of the Fox Cities Tourism Zone, to confirm the establishment of the Commission and its powers, duties, and membership, to appoint the Fox Cities Convention & Visitors Bureau (the “**CVB**”) as a tourism entity to provide the administrative support for collecting and allocating a portion of the Room Tax, and to confirm the Municipalities’ agreements set forth in the Original Cooperation Agreement with respect to the Exhibition Center and the Room Tax; and

WHEREAS, the Original Cooperation Agreement and the Tourism Entity Agreement, dated December 31, 2015, by and between the Commission and the CVB (the “**Tourism Entity Agreement**”) contemplate that when the Bonds are issued to finance the



Exhibition Center, a Pledge and Security Agreement will be entered into by and among the Municipalities, the Commission, and a trustee (the “**Pledge and Security Agreement**”) to provide for the pledge of the Exhibition Center Room Tax for the payment of the Bonds; and

WHEREAS, pursuant to the Pledge and Security Agreement, the Exhibition Center Room Tax will be required to be paid to the trustee for the Bonds; and

WHEREAS, subsequent to the execution of the Original Cooperation Agreement, the Commission and Zone Agreement, and the Tourism Entity Agreement, certain facts and assumptions contemplated in said agreements have changed, including that

- (i) the Bonds have not yet been issued,
- (ii) the Pledge and Security Agreement has not been entered into,
- (iii) the PAC Bonds are being called for redemption in full on March 1, 2018, at which time the PAC Cooperation Agreement (defined in the Original Cooperation Agreement) will terminate and the PAC Room Tax will be reallocated,
- (iv) a municipality that is party to the Original Cooperation Agreement has been incorporated as a village, and
- (v) the City of Appleton, Wisconsin has constructed the Exhibition Center with its own funds; and

WHEREAS, the hotelkeepers, motel operators, and other persons or entities furnishing accommodations that are available to the public in the Municipality and obligated to collect the Room Tax (the “**Operators**”) have been forwarding the PAC Room Tax directly to the trustee for the PAC Bonds; and

WHEREAS, it is necessary and desirable to amend and restate the Original Cooperation Agreement and amend the Commission and Zone Agreement to reflect current facts and assumptions, and to enter into the Pledge and Security Agreement as contemplated under the above agreements; and

WHEREAS, there have been presented to the Municipality substantially final drafts of an Amended and Restated Cooperation Agreement, a First Amendment to the Amended and Restated Room Tax Commission and Tourism Zone Agreement, and a Pledge and Security Agreement (collectively, the “**Exhibition Center Documents**”);

NOW, THEREFORE, BE IT RESOLVED by the Common Council (the “**Governing Body**”) of the Municipality as follows:

**Section 1.     Approval of Exhibition Center Documents.**

The terms and provisions of the Amended and Restated Cooperation Agreement, the First Amendment to the Amended and Restated Room Tax Commission and Tourism Zone

Agreement, and the Pledge and Security Agreement are hereby approved. The Mayor and Clerk are hereby authorized for and in the name of the Municipality to execute and deliver the Exhibition Center Documents in substantially the forms thereof presented herewith, with such insertions therein or corrections or changes thereto as shall be approved by such officers consistent with this resolution, their execution thereof to constitute conclusive evidence of their approval of any such insertions, corrections, or changes.

**Section 2.     Notification to Operators; Exhibition Center Room Tax to Trustee.**

The officers of the Municipality are hereby directed to cause notice to be delivered to each Operator that, effective April 1, 2018, (i) the PAC Room Tax (2%) shall no longer be forwarded to the trustee for the PAC Bonds, (ii) the Exhibition Center Room Tax (3%) shall instead be forwarded to the trustee for the Bonds on the quarterly dates set forth in the Pledge and Security Agreement, and (iii) the remaining Room Tax (7%), which includes the PAC Room Tax, shall be forwarded to the Municipality.

**Section 3.     General Authorizations.**

The officers of the Municipality are hereby each authorized to execute, publish, file, and record such other documents, instruments, notices, and records and to take such other actions, including entering into additional agreements and amending existing agreements, as shall be necessary or desirable to accomplish the purposes of this resolution and to comply with the obligations of the Municipality under the Commission and Zone Agreement and the Exhibition Center Documents, as each may be amended and restated, and to facilitate the issuance of the Bonds. In addition, the representatives of the Municipality that serve as commissioners on the Commission are hereby authorized and directed to take any necessary action on behalf of the Municipality with respect to actions taken by the Commission relating to the Bonds and the Exhibition Center Room Tax allocated to the payment, either directly or indirectly, of debt service on the Bonds.

**Section 4.     Effective Date.**

This resolution shall be effective immediately upon its passage and approval. To the extent that any prior resolutions of the Governing Body are inconsistent with the provisions hereof, this resolution shall control, and such prior resolutions shall be deemed amended to such extent as may be necessary to bring them in conformity with this resolution.

\* \* \* \* \*

Adopted: February 21, 2018

Approved: February \_\_\_\_, 2018

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Mayor

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Clerk

## **CERTIFICATIONS BY CLERK**

I, Kami Lynch, hereby certify that I am the duly qualified and acting Clerk of the City of Appleton, Wisconsin (the “**Municipality**”), and as such I have in my possession, or have access to, the complete corporate records of said Municipality and of its Common Council (the “**Governing Body**”) and that attached hereto is a true, correct, and complete copy of the resolution (the “**Resolution**”) entitled:

### **Resolution Authorizing the Execution and Delivery of Documents relating to the Fox Cities Exhibition Center Project**

I do hereby further certify as follows:

1. **Meeting Date.** On February 21, 2018, a meeting of the Governing Body was held commencing at \_\_\_\_\_ p.m.
2. **Posting.** On February \_\_\_\_, 2018 (and not less than 24 hours prior to the meeting), I posted or caused to be posted at the Municipality’s offices in Appleton, Wisconsin a notice setting forth the date, time, location, and subject matter (including specific reference to the Resolution) of said meeting.
3. **Notification of Media.** On February \_\_\_\_, 2018 (and not less than 24 hours prior to the meeting), I communicated or caused to be communicated, the date, time, location, and subject matter (including specific reference to the Resolution) of said meeting to those news media who have filed a written request for such notice and to the official newspaper of the Municipality.
4. **Open Meeting Law Compliance.** Said meeting was a regular meeting of the Governing Body that was held in open session in compliance with Subchapter V of Chapter 19 of the Wisconsin Statutes and any other applicable local rules and state statutes.
5. **Members Present.** Said meeting was duly called to order by the Mayor (the “**Presiding Officer**”), who chaired the meeting. Upon roll call, I noted and recorded that there were \_\_\_\_\_ members of the Governing Body present at the meeting, such number being a quorum of the Governing Body.
6. **Consideration of and Roll Call Vote on Resolution.** Various matters and business were taken up during the course of the meeting without intervention of any closed session. One of the matters taken up was the Resolution. A proper quorum of the Governing Body was present for the consideration of the Resolution, and each member of the Governing Body had received a copy of the Resolution. All rules of the Governing Body that interfered with the consideration of the Resolution, if any, were suspended by a two-thirds vote of the Governing Body. The Resolution was then introduced, moved, and seconded, and after due consideration, upon roll call, \_\_\_\_\_ of the Governing Body members voted Aye, \_\_\_\_\_ voted Nay, and \_\_\_\_\_ Abstained.

7. **Adoption of Resolution.** The Resolution was supported by the affirmative vote of a majority of a quorum of the members of the Governing Body in attendance. The Presiding Officer then declared that the Resolution was adopted, and I recorded the Resolution.

8. **Approval of Presiding Officer.** The Resolution was approved by the Presiding Officer on February \_\_\_\_\_, 2018, and I have recorded the approval. The approval is evidenced by the signature of the Presiding Officer on the copy of the Resolution to which this certificate is attached.

IN WITNESS WHEREOF, I have signed my name and affixed the seal of the Municipality, if any, hereto on February \_\_\_\_\_, 2018.

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Clerk

[SEAL]

**AMENDED AND RESTATED  
COOPERATION AGREEMENT  
FOR THE  
FOX CITIES EXHIBITION CENTER**

Dated as of [April 1], 2018

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Amending and Restating in its entirety  
the Exhibition Center Cooperation Agreement,  
dated as of November 24, 2015

by and among

THE MUNICIPALITIES NAMED HEREIN

the

REDEVELOPMENT AUTHORITY OF THE  
CITY OF APPLETON, WISCONSIN

and the

FOX CITIES AREA ROOM TAX COMMISSION

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**AMENDED AND RESTATED  
COOPERATION AGREEMENT  
FOR THE  
FOX CITIES EXHIBITION CENTER**

This AMENDED AND RESTATED COOPERATION AGREEMENT (this “**Agreement**”), is made as of [April 1], 2018, by and among the CITY OF APPLETON, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Appleton**”), the CITY OF KAUKAUNA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kaukauna**”), the CITY OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**City of Neenah**”), the VILLAGE OF KIMBERLY, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kimberly**”), the VILLAGE OF LITTLE CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Little Chute**”), the TOWN OF GRAND CHUTE, WISCONSIN, a Wisconsin political subdivision (“**Grand Chute**”), the TOWN OF NEENAH, WISCONSIN, a Wisconsin political subdivision (“**Town of Neenah**”), the VILLAGE OF FOX CROSSING, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Fox Crossing**”), the CITY OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Menasha**”), and the VILLAGE OF SHERWOOD, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Sherwood**” and, collectively with Appleton, Kaukauna, City of Neenah, Kimberly, Little Chute, Grand Chute, Town of Neenah, Fox Crossing, and Menasha, the “**Municipalities**”), the REDEVELOPMENT AUTHORITY OF THE CITY OF APPLETON, WISCONSIN, a Wisconsin body corporate and politic (the “**ARA**”), and the FOX CITIES AREA ROOM TAX COMMISSION, a Wisconsin intergovernmental commission (the “**Room Tax Commission**”), to amend and restate in its entirety the Exhibition Center Cooperation Agreement, dated as of November 24, 2015 (the “**Original Agreement**”), entered into by and among the above parties and the Fox Cities Performing Arts Center, Inc. (the “**PAC**”), as a result of certain changes in facts and assumptions that have occurred subsequent to the execution of the Original Agreement.

**ARTICLE I**

**DEFINITIONS**

In addition to those terms defined throughout this Agreement, the following terms shall have the following meanings ascribed to them:

“**Additional Bonds**” means such revenue bonds in such series and in such principal amounts as the ARA may issue from time to time pursuant to a supplement to the Indenture for the purpose of refinancing or refunding then-outstanding Bonds.

“**Additional Municipality**” means any municipality within the Tourism Zone which, subsequent to the date of this Agreement, becomes a member of the Room Tax Commission and which, pursuant to Section 5.02, becomes a party to this Agreement.

“**Bonds**” means, collectively, the Series 2018 Bonds and any Additional Bonds issued by the ARA for the purposes set forth in this Agreement.

**“Commission Agreement”** means the Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of November 24, 2015, by and between the Municipalities and the Room Tax Commission, as amended by a First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of [April 1], 2018, and as further amended from time to time.

**“Credit Enhancement”** means a policy of bond insurance, a letter of credit, a guaranty, or another form of credit enhancement as security for payment of debt service on the Bonds

**“CVB”** shall mean the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin nonprofit corporation, or its successors and assigns pursuant to the Tourism Entity Agreement.

**“Exhibition Center”** means the Fox Cities Exhibition Center, a convention center as referenced in the Room Tax Act, more specifically described in Exhibit A hereto and situated on the Exhibition Center Property.

**“Exhibition Center Property”** means [the real property legally described in Exhibit B hereto.]

**“Exhibition Center Room Tax”** means the 3% Room Tax levied by each Municipality pursuant to the Room Tax Act and the Commission Agreement for purposes of paying, directly or indirectly, [the costs of construction of the Exhibition Center and debt service on the Bonds and/or such other reasonable and customary payments or deposits related to the Bonds as may be provided in the Indenture, such as, but not limited to, costs of issuance and administration, Credit Enhancement, debt service reserve and room tax stabilization funds, and capitalized interest, if any].

**“Governing Body”** means, when used with reference to a Municipality, the Common Council, Village Board, or Town Board, as applicable, of such Municipality.

**“Governing Body Authorizations”** means (i) the Ordinances, (ii) the resolutions titled [“Resolution Authorizing the Execution and Delivery of Documents relating to the Fox Cities Exhibition Center Project”] adopted by the Governing Bodies of: (a) Appleton on \_\_\_\_\_, 2018, (b) Grand Chute on \_\_\_\_\_, 2018 (c) Kaukauna on \_\_\_\_\_, 2018, (d) Kimberly on \_\_\_\_\_, 2018, (e) Little Chute on \_\_\_\_\_, 2018, (f) City of Menasha on \_\_\_\_\_, 2018, (g) Town of Menasha on \_\_\_\_\_, 2018, (h) City of Neenah on \_\_\_\_\_, 2018, (i) Town of Neenah on \_\_\_\_\_, 2018, and (j) Sherwood on \_\_\_\_\_, 2018, (iii) the resolution of the Room Tax Commission adopted on \_\_\_\_\_, 2018 relating to the Exhibition Center, and (iv) the resolution[s] of the ARA adopted on [February 16, 2018 and March 7, 2018, each] relating to the Exhibition Center.

**“Indenture”** means the Indenture of Trust, dated as of [April 1], 2018, by and between the ARA and the Trustee with respect to the Series 2018 Bonds as supplemented or amended from time to time pursuant to the terms thereof, including pursuant to which Additional Bonds are issued.

**“Lease”** means the instrument of lease between the ARA and Appleton described in Section 3.05 hereof, as amended from time to time pursuant to the terms thereof, including in connection with the issuance of Additional Bonds.

**“Management Agreement”** means the Management Agreement dated November 18, 2015 entered into by Appleton Holdings, LLC, as owner and operator of the Paper Valley Hotel, and [\_\_\_\_\_], a single purpose entity owned by Appleton Holdings, LLC, as amended from time to time.

**“Mortgages”** means, collectively, any and all mortgages and assignments of leases, security agreements or other agreements or instruments entered into by the ARA and delivered to the Trustee for the purpose of granting the Trustee a mortgage lien on the Exhibition Center Property and all improvements located thereon, including the Exhibition Center [, and a security interest in the personal property described therein,] as collateral security for the payment of the Bonds, in each case as amended from time to time pursuant to the terms thereof.]

**“Municipality”** means each of, Appleton, Kaukauna, City of Neenah, Kimberly, Little Chute, Grand Chute, Town of Neenah, Fox Crossing, Menasha, Sherwood, and any Additional Municipality.

**“Operators”** means any hotelkeepers, motel operators, and other persons that furnish accommodations that are available to the public and are obligated to collect the Room Tax.

**“Ordinances”** means the room tax ordinances adopted in November, 2015 by each Municipality’s Governing Body pursuant to the Room Tax Act, which levied a 10% Room Tax, including the Exhibition Center Room Tax.

**“Pledge and Security Agreement”** means the Pledge and Security Agreement, dated as of [April 1], 2018, by and among the Municipalities, the Room Tax Commission, and the Trustee, incorporating the pledge of Exhibition Center Room Taxes to the payment, directly or indirectly, of debt service on the Bonds and related purposes, as amended from time to time pursuant to the terms thereof.

**“Redevelopment Act”** means Section 66.1333 of the Wisconsin Statutes, as amended.

**“Room Tax”** means a tax levied pursuant to the Room Tax Act.

**“Room Tax Act”** means Section 66.0615 of the Wisconsin Statutes, as amended.

**“Room Tax Commission”** means the Fox Cities Area Room Tax Commission created by the Municipalities for the purpose of coordinating tourism promotion and tourism development in the Tourism Zone, the membership of which shall be established as set forth in the Commission Agreement and subsection (1m)(c)(2) of the Room Tax Act.

**“Series 2018 Bonds”** means the ARA’s Taxable Lease Revenue Bonds, Series 2018 (Fox Cities Exhibition Center Project), dated their date of initial delivery, issued in the aggregate principal amount of \$\_\_\_\_\_ pursuant to the Indenture.

**“Tourism Entity Agreement”** means Tourism Entity Agreement, dated as of December 31, 2015, between the CVB and the Room Tax Commission, as amended by a First Amendment to Tourism Entity Agreement, dated as of [April 1], 2018, and as further amended from time to time.

**“Tourism Zone”** as means the Fox Cities Tourism Zone, established pursuant to the Commission Agreement and the Room Tax Act, encompassing the Municipalities and any neighboring municipalities.

**“Trustee”** means Associated Trust Company, National Association, as trustee under the Indenture, and its successors in such capacity.

## **ARTICLE II**

### **FACTS AND RECITALS**

#### **Section 2.01 Governing Body Authorizations.**

The execution, delivery and performance of this Agreement by the Municipalities, the Room Tax Commission, and the ARA have been authorized by the respective Governing Body Authorizations and pursuant to Section 66.0301 of the Wisconsin Statutes, the Room Tax Act and the Redevelopment Act.

#### **Section 2.02 Tourism Zone Objectives.**

The Municipalities, the Room Tax Commission and the ARA have identified the development and redevelopment of the Tourism Zone and the promotion and development of tourism within the Tourism Zone as matters of group interest.

#### **Section 2.03 Importance of Exhibition Center.**

The Municipalities, the Room Tax Commission and the ARA have found and determined:

(a) that (i) each Municipality is located in a county or counties with a population of less than 380,000; (ii) the counties in which the Municipalities are located are not located adjacent to any county with a population of over 380,000; and (iii) the Municipalities have worked cooperatively together to construct and finance the Exhibition Center, as contemplated by subsection (1m)(am)(3) of the Room Tax Act; and

(b) that the control, disposition, and use of the Exhibition Center is crucial to the achievement of a sound and coordinated development of the Tourism Zone and for the promotion and development of tourism activities within the Tourism Zone.

#### **Section 2.04 Construction of Exhibition Center.**

Since the date of the Original Agreement, the Exhibition Center project has been undertaken and completed by Appleton on behalf of the Municipalities, the Room Tax

Commission, and the ARA. Appleton has acquired the Exhibition Center Property within the Tourism Zone and has completed the construction of the Exhibition Center as described in Exhibit A hereto. The Exhibition Center project involved the construction, installation, and improvement of real property within the Tourism Zone, which improvements and interrelated facilities constitute a “convention center” within the meaning of the Room Tax Act.

#### **Section 2.05 Levy and Importance of Room Tax Revenues.**

The Municipalities have enacted the Ordinances to levy, and authorize the collection and enforcement of, a 10% Room Tax, which includes the Exhibition Center Room Tax, as permitted in the Room Tax Act. The Exhibition Center Room Tax revenues, as pledged and utilized pursuant to this Agreement and the Pledge and Security Agreement, will assist in the financing of the Exhibition Center.

#### **Section 2.06 Contract with CVB.**

The Room Tax Commission has entered into the Tourism Entity Agreement with the CVB, as a tourism entity, to obtain staff, support services, and assistance in developing and implementing programs to promote the Tourism Zone to visitors, and to receive and administer certain of the Room Taxes on behalf of the Room Tax Commission.

#### **Section 2.07 Management Agreement.**

Appleton has entered into the Management Agreement, providing for the operation and management of the Exhibition Center in such a manner as to promote and develop tourism within the Tourism Zone.

#### **Section 2.08 Termination of PAC Cooperation Agreement.**

The Cooperation Agreement dated June 1, 2000 (the “**PAC Cooperation Agreement**”), in which the Municipalities (excluding the City of Menasha and Sherwood, but including Fox Crossing, into which the Town of Menasha was incorporated, and Little Chute, which was added as a party after the initial execution) agreed to impose a Room Tax at the rate of two percent (2%) (the “**PAC Room Tax**”) and pledged certain revenues thereof to the payment of bonds (the “**PAC Bonds**”) which were issued to pay the costs associated with the construction of the Fox Cities Performing Arts Center has been terminated, and the PAC Bonds have been paid in full. The continued imposition and collection of the PAC Room Tax was authorized by the Ordinances.

### **ARTICLE III**

#### **FINANCING OF THE EXHIBITION CENTER PROJECT**

#### **Section 3.01 Contribution of Exhibition Center Property to ARA.**

Acting pursuant to Section[s 6(f) and] 13 of the Redevelopment Act, to provide general support and assistance to the ARA in carrying out redevelopment as provided in the Redevelopment Act, Appleton shall contribute to the ARA, all Appleton’s right, title, and

interest in and to the Exhibition Center and the Exhibition Center Property. Appleton shall execute and deliver to the ARA such deeds, bills of sale, and other instruments as the ARA may reasonably request to evidence and perfect such contribution from Appleton.

### **Section 3.02 Acceptance of Appleton Contribution.**

The ARA agrees to accept ownership of the Exhibition Center and the Exhibition Center Property from Appleton pursuant to Section 3.01 hereof. The ARA shall accept said ownership at any time as deemed appropriate by Appleton and the ARA.

### **Section 3.03 Total Costs of Construction; Reimbursement to Appleton.**

The amounts spent by Appleton on the costs of the Exhibition Center project are set forth in Exhibit A. The Municipalities hereby agree that the following amounts shall be paid to Appleton to reimburse it for such project costs:

- (a) net proceeds of the Series 2018 Bonds, after payment of costs of issuance and funding of debt service reserve and stabilization funds as provided in the Indenture;
- (b) all Exhibition Center Room Taxes collected from January 1, 2016 through [\_\_\_\_\_] [the date of issuance of the Series 2018 Bonds], which are held by the CVB in the [Room Tax Clearing Account] pursuant to the Tourism Entity Agreement,
- (c) \$750,000 of funds held by the trustee for the PAC Bonds and remaining after payment of the PAC Bonds.

The Municipalities acknowledge that the application of the funds described in (b) and (c) above will reduce the principal amount of the Series 2018 Bonds necessary to finance the Exhibition Center project. The Room Tax Commission shall direct the CVB to apply the funds described in (b) above to such reimbursement, and the ARA shall direct the trustee for the PAC Bonds to apply the funds described in (c) above to such reimbursement.

### **Section 3.04 Issuance of Bonds.**

- (a) The ARA shall issue and sell the Series 2018 Bonds upon terms acceptable to Appleton. Appleton's acceptance shall be conclusively evidenced by its execution of the Lease as provided in Section 3.05.
- (b) The ARA may, from time to time, issue and sell Additional Bonds upon terms acceptable to Appleton. Appleton's acceptance shall be conclusively evidenced by its execution of an amendment to the Lease with respect to Additional Bonds pursuant to the terms thereof.
- (c) The Bonds will be limited obligations of the ARA and shall not constitute a debt or obligation of the ARA, Appleton, or the other Municipalities and shall not be a charge against the general credit or taxing powers of the ARA or any Municipality except for and limited to the Exhibition Center Room Tax revenues pursuant to the Pledge and Security Agreement. Each series of Additional Bonds shall be payable by the ARA

solely from revenues derived by the ARA from the Lease, the Pledge and Security Agreement, amounts recovered by recourse to any Mortgage or any Credit Enhancement pursuant to Sections 3.07 or 3.08, and cash and securities held from time to time in certain trust funds held by the Trustee under the Indenture and the investment earnings thereon.

### **Section 3.05 Lease of Exhibition Center Property.**

The ARA agrees to lease to Appleton the Exhibition Center and the Exhibition Center Property contributed to the ARA. The Lease shall contain restrictions on the use of the Exhibition Center Property consistent with the restrictions on the use of the Exhibition Center and the Exhibition Center Property as a “convention center” within the meaning of the Room Tax Act and otherwise consistent with the terms hereof. The Lease shall be a “triple net lease” and shall provide for rents payable on such dates and in such amounts as shall be sufficient to make all payments of principal of and premium, if any, and interest on the Bonds. The obligation of Appleton to pay rents or other amounts due under the Lease shall be conditioned upon Appleton’s “quiet enjoyment” of the Exhibition Center Property. The ARA shall waive any rights it may have to reenter or retake possession of the premises or accelerate the payment of rents or other amounts due under the Lease in the event of a default by Appleton under the Lease. The Lease will also grant to Appleton an option to purchase all of the ARA’s right, title, and interest in and to the Exhibition Center Property for a price of \$100, which may be exercised at any time after the date of the full and final retirement of all outstanding Bonds (or provision therefor in accordance with the Indenture), except in the event of a termination of the Lease as provided therein.

The Lease shall provide for a credit against the rents due from Appleton for all Exhibition Center Room Taxes then on deposit with the Trustee and available for payment of debt service on the Bonds. The ARA and Appleton anticipate that the Exhibition Center Room Taxes will be sufficient to make all payments of debt service on the Bonds; *however*, in the event that such Exhibition Center Room Taxes are insufficient to make such payments, Appleton will agree, subject to the terms of the Lease, to fund such payments then due and payable under the Lease.

To the extent that Appleton is required to fund such payments under the Lease, such payments shall be considered a loan or advance to the Room Tax Commission to be reimbursed from future Exhibition Center Room Taxes, together with interest at a rate equal to the rate of interest established by the Local Government Investment Pool of the State of Wisconsin on the date of such loan or advance; such reimbursement to occur as soon as reasonably practicable and to the extent that the Room Tax Commission has received Exhibition Center Room Taxes in excess of that amount required for payment of principal, interest and premium, if any, on the Bonds.

### **Section 3.06 Municipalities to Pledge the Exhibition Center Room Tax.**

The Municipalities and the Room Tax Commission shall enter into the Pledge and Security Agreement setting forth the terms and conditions of the pledge of Exhibition Center Room Taxes, which pledge shall terminate upon payment in full of all outstanding Bonds.

### **Section 3.07 Mortgage of the Exhibition Center Property.**

The ARA may grant to the Trustee, as security for the payment of the Bonds, a Mortgage. Any Mortgage will be subordinate to the Lease and will not give the Trustee any right to evict Appleton or retake possession of the Exhibition Center Property or to accelerate the payment of rents under the Lease.

### **Section 3.08 Credit Enhancement.**

As further security for any Additional Bonds, the ARA may provide or cause to be provided Credit Enhancement with respect to the Bonds. Any premium or other fees payable to the issuer of a policy of bonds insurance or a letter of credit or any other guarantor of the Bonds (such issuer or other guarantor, a “**Bond Guarantor**”) may be paid from Exhibition Center Room Tax revenues or other funds as provided in the Indenture. In the event a Bond Guarantor is required to make debt service payments, Exhibition Center Room Tax revenues may be used to reimburse the Bond Guarantor for all payments of debt service on the Bonds.

## **ARTICLE IV**

### **OPERATION OF THE CONVENTION CENTER**

#### **Section 4.01 Appleton to Provide Administrative Support to ARA.**

Appleton agrees to provide the necessary administrative support to enable the ARA to achieve the objectives set forth herein. Administrative support may include services such as the provision of office space and the provision of financial, accounting, legal and engineering consultation in connection with the financing and operation of the Exhibition Center.

#### **Section 4.02 Advisory Committee.**

During the term of this Agreement, the ARA shall provide an opportunity for reasonable participation of the Municipalities in decisions relating to the operation of the Exhibition Center through the creation of an advisory committee which is intended to provide counsel to the ARA and to assist in program development and operations for the Exhibition Center (the “**Advisory Committee**”). The membership of the Advisory Committee shall include the following: one representative from each Municipality (appointed by the Municipality); two Operators collecting Room Taxes (appointed by the ARA Chairperson and approved by ARA), two community members residing within a Municipality (appointed by the ARA Chairperson and approved by ARA), one member of the ARA (appointed by the ARA Chairperson); and the Executive Director of the CVB, or his/her designee. The Appleton Community and Economic Development Director, or a designee thereof, shall also be a non-voting, advisory member of the Committee. The Chair and Vice-Chair of the Committee shall be designated by ARA and shall serve one-year terms that may be renewed at the discretion of ARA. Committee members, with the exception of the Executive Director of the CVB and Appleton Community and Economic Development Director, or designees thereof, shall serve terms of two years and may serve up to three consecutive terms. However, upon establishment of the Advisory Committee, the following shall serve an initial term of three years: one half of the participating Municipalities



chosen by random selection, one of the hotelier representatives, and one of the community members, chosen by the ARA Chairperson.

The roles and responsibilities and general operating rules of the Advisory Committee shall be as passed and approved by the Advisory Committee from time to time.

**Section 4.03 Municipalities to Plan to Promote Private Development.**

The Municipalities agree to continue to work with the Room Tax Commission and the CVB to develop plans for the use of the Exhibition Center property in a manner that will promote and assist the future private development of the Tourism Zone and that will promote and develop tourism and redevelopment.

**Section 4.04 Municipalities to Participate in the Room Tax Commission.**

The Municipalities agree to continue the existence of, and to participate in, the Room Tax Commission as provided by the Room Tax Act until payment in full of all outstanding Bonds.

**Section 4.05 Nondiscrimination.**

Each party agrees that the Exhibition Center shall not be operated in a manner to permit discrimination or restriction on the basis of race, color, ancestry, religion, national origin, political affiliation (except to members of political groups or parties who advocate the overthrow of the United States government), sex, gender identity, gender expression, age, disability, marital status, arrest or conviction record, sexual orientation, disabled veteran or a covered veteran status and that the Exhibition Center shall be operated in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

**ARTICLE V**

**MISCELLANEOUS**

**Section 5.01 Amendment and Restatement of Original Agreement.**

This Agreement amends and restates the Original Agreement and shall become effective as of the date of this Agreement, on which date the Original Agreement shall be superseded in its entirety. The PAC has executed and delivered this Agreement solely to acknowledge and agree that its rights and obligations under the Original Agreement have been terminated by this Agreement.

**Section 5.02 Additional Municipalities.**

Any Additional Municipality that becomes an additional member of the Room Tax Commission pursuant to the Commission Agreement shall, as a condition of such membership under said agreement, become an additional party to this Agreement. Each Additional Municipality shall be bound to the terms, conditions, and obligations of the Municipalities under this Agreement by execution and delivery to the Room Tax Commission of a joinder agreement in substantially the form attached hereto as Exhibit C. A copy of the executed joinder agreement

shall be delivered by the Room Tax Commission to the other then-current parties to this Agreement. Acceptance by the Room Tax Commission of such joinder agreement shall, without further action or approval of the parties to this Agreement, be deemed an approval of such Additional Municipality as an additional party to this Agreement by the then-current parties to this Agreement.

Any Additional Municipalities to hereafter become a party to this Agreement agree to enact governing body authorizations to effect the same as the Governing Body Authorizations.

**Section 5.03 Assignment of Rights Under this Agreement.**

No party may assign its rights under this Agreement without the written consent of all the other parties, except in the case of a Municipality's assignment to a successor municipality that has complied with the requirements of an Additional Municipality under Section 5.02 hereof.

**Section 5.04 No Personal Liability.**

Under no circumstances shall any officer, official, director, member or employee of the Municipalities, the Room Tax Commission or the ARA have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

**Section 5.05 Parties and Interests.**

This Agreement is made solely for the benefit of the parties hereto, the Trustee and the owners of the Bonds and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof.

**Section 5.06 Notices.**

All notices, demands, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when hand delivered, or when sent by first class mail, email, or overnight delivery service, with proper address as indicated in each party's address indicated beneath the signature(s) of such party to this Agreement. Any party may, by written notice to the other parties, designate a change of address for the purposes aforesaid.

**Section 5.07 Amendment.**

No modification, alteration or amendment to this Agreement shall be binding upon any party hereto until such modification, alteration or amendment is agreed upon in writing and executed by all parties hereto.

**Section 5.08 Termination of Agreement; Sunset of Exhibition Center Room Tax.**

This Agreement and the terms and obligations hereunder shall terminate upon payment in full of all outstanding Bonds, and discharge of the Indenture, and upon any reimbursement to (i) Appleton, in accordance with the Lease or (ii) any Bond Guarantor for any debt service payments made and other amounts due to such Bond Guarantor pursuant to Section 3.08 hereof.

Pursuant to the Ordinances, the Exhibition Center Room Tax shall sunset upon payment in full of all outstanding Bonds and thereafter the Room Tax shall be reduced by 3%, with such reduction being deemed to be the share of the Room Tax allocated to the Exhibition Center Room Tax. At the time all outstanding Bonds are fully satisfied, any excess Exhibition Center Room Tax collected but not needed for the payment of the Bonds or any reimbursement due to Appleton or a Bond Guarantor shall be reallocated to [\_\_\_\_\_] (the “**Tourism Development Fund**”) for use of tourism promotion and tourism development in the Fox Cities Tourism Zone. [[Notwithstanding the forgoing, Operators shall continue to collect Exhibition Center Room Tax until the respective Municipality has given notice of the termination of the Exhibition Center Room Tax.]]

#### **Section 5.09 Governing Law**

The laws of the State of Wisconsin shall govern this Agreement.

#### **Section 5.10 Captions.**

The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Agreement.

#### **Section 5.11 Counterparts.**

This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

#### **Section 5.12 Severability.**

If any provisions of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**CITY OF APPLETON, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Appleton  
Attention: Director of Finance  
100 North Appleton Street  
Appleton, Wisconsin 54911

Email: tony.saucerman@appleton.org

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**CITY OF KAUKAUNA, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Kaukauna  
Attention: Clerk-Treasurer  
201 West Second Street  
Kaukauna, Wisconsin 54130

Email: clerk-treasurer@kaukauna.org

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**CITY OF NEENAH, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Neenah  
Attention: Finance Director  
211 Walnut Street  
Neenah, Wisconsin 54956

Email: measker@ci.neenah.wi.us

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**VILLAGE OF KIMBERLY, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Kimberly  
Attention: Village Administrator  
515 West Kimberly Avenue  
Kimberly, Wisconsin 54136

Email: dblock@vokimberly.org

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**VILLAGE OF LITTLE CHUTE, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Little Chute  
Attention: Village Administrator  
108 West Main Street  
Little Chute, Wisconsin 54140

Email: jfenlon@littlechutewi.org



IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**TOWN OF GRAND CHUTE, WISCONSIN**

By: \_\_\_\_\_  
Its: Chairperson

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Town of Grand Chute  
Attention: Town Administrator  
1900 West Grand Chute Boulevard  
Grand Chute, Wisconsin 54913

Email: jim.march@grandchute.net

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**TOWN OF NEENAH, WISCONSIN**

By: \_\_\_\_\_  
Its: Chairperson

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Town of Neenah  
Attention: Clerk-Treasurer  
1600 Breezewood Lane  
Neenah, Wisconsin 54956

Email: ellen@townofneenah.com

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**VILLAGE OF FOX CROSSING, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Fox Crossing  
Attention: Village Administrator  
2000 Municipal Drive  
Neenah, Wisconsin 54956

Email: [jsturgell@foxcrossingwi.gov](mailto:jsturgell@foxcrossingwi.gov)

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**CITY OF MENASHA, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Menasha  
Attention: Director of Administrative Services/Comptroller/Treasurer  
140 Main Street  
Menasha, Wisconsin 54952

Email: jjacobs@ci.menasha.wi.us

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**VILLAGE OF SHERWOOD, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Sherwood  
Attention: Village Administrator  
W482 Clifton Road  
Sherwood, Wisconsin 54169

Email: administrator.sherwood@newbc.rr.com

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**REDEVELOPMENT AUTHORITY OF THE CITY  
OF APPLETON, WISCONSIN**

By: \_\_\_\_\_  
Its: Executive Director

ADDRESS:

Appleton Redevelopment Authority  
Attention: Executive Director  
100 North Appleton Street  
Appleton, Wisconsin 54911

Email: karen.harkness@appleton.org

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**FOX CITIES AREA ROOM TAX COMMISSION**

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

And: \_\_\_\_\_  
Its: \_\_\_\_\_

ADDRESS:

Fox Cities Area Room Tax Commission  
Attention: Chairperson  
c/o Fox Cities Convention & Visitors Bureau  
3433 West College Avenue  
Appleton, Wisconsin 54914

Email: [bruce.sherman@grandchute.net](mailto:bruce.sherman@grandchute.net)

**ACKNOWLEDGEMENT OF**  
**AMENDED AND RESTATED COOPERATION AGREEMENT**

The undersigned hereby acknowledges that it is a party to the Exhibition Center Cooperation Agreement, dated as of November 24, 2015, by and among certain Municipalities in the Fox Cities area, the Redevelopment Authority of the City of Appleton, Wisconsin, and the Fox Cities Area Room Tax Commission (the “**Original Agreement**”) and that the Original Agreement has been amended and restated by the foregoing Amended and Restated Cooperation Agreement, dated as of [April 1], 2018, to which the undersigned is not a party. The undersigned further acknowledges that it has no further rights or obligations under the Original Agreement.

FOX CITIES PERFORMING ARTS CENTER, INC.

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

[Acknowledgement of Amended and Restated Cooperation Agreement]



## **EXHIBIT A**

### **Exhibition Center Project**

[The Fox Cities Exhibition Center (“FCEC”) is an approximately 30,000 square foot facility with an iconic spire and glass façade overlooking Jones Park located at \_\_\_\_\_ Lawrence Street, Appleton, Wisconsin, includes exhibition, trade show, and meeting space with state of the art technical capabilities. The exhibition space can be divided into three 10,000 square foot sections and features a pre-function space and dedicated meeting space. The FCEC also has 17,000 square feet of outdoor exhibition space that can be rented. The FCEC is connected to the Radisson Paper Valley Hotel, which offers an additional 40,000 square feet of meeting, banquet and break-out space and 390 sleeping rooms]

Costs Paid by Appleton:

Reimbursement Amount to Appleton: \$\_\_\_\_\_

## **EXHIBIT B**

### **Exhibition Center Property Description**

[Legal Description Attached]

## Legal Description

Parcel No. 312011600

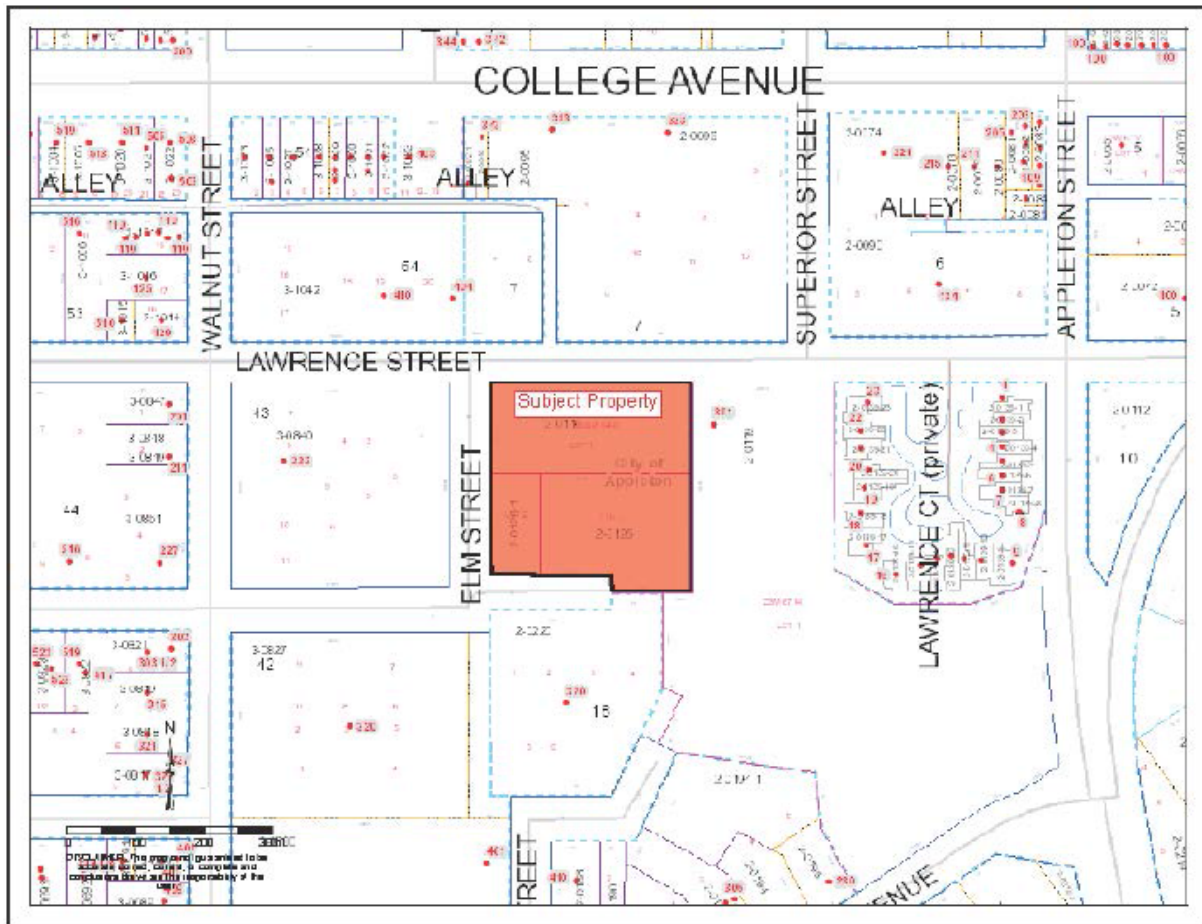
CSM 5460 Lot 1 Vol 31 Doc 1726114 being all of Lots 1,2,3,4,5,8,9,10, 11 & 12 Blk 8 Appleton Plat and Prt of Vac Eighth St

Parcel No. 312012601

CSM 5460 Lot 2 Vol 31 Doc 1726114 being all of Lots 1,2,3,4,5,8,9,10, 11 & 12 Blk 8 Appleton Plat and Prt of Vac Eighth St

Parcel No. 312012600

CSM 5460 Lot 3 Vol 31 Doc 1726114 being all of Lots 1,2,3,4,5,8,9,10, 11 & 12 Blk 8 Appleton Plat and Prt of Vac Eighth St



[Acknowledgement of Amended and Restated Cooperation Agreement]

**EXHIBIT C**

**JOINDER AGREEMENT TO**

**AMENDED AND RESTATED COOPERATION AGREEMENT**

The undersigned municipality hereby agrees that it shall be an Additional Municipality as defined in the Amended and Restated Cooperation Agreement, dated as of [April 1], 2018 (the “**Agreement**”), and hereby agrees to enter into and be bound by the terms, conditions, and obligations of the Municipalities under the Agreement, as amended from time to time. On and after the date of this Joinder Agreement, the undersigned shall be deemed a Municipality under the Agreement.

IN WITNESS WHEREOF, the undersigned Municipality has duly executed this Joinder Agreement effective as of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ OF \_\_\_\_\_, WISCONSIN

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

Its: \_\_\_\_\_

And: \_\_\_\_\_

Its: \_\_\_\_\_

ADDRESS:

\_\_\_\_\_ of \_\_\_\_\_

Attention: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_, Wisconsin \_\_\_\_\_

Email: \_\_\_\_\_

Accepted on behalf of itself, the Municipalities, and the Redevelopment Authority of the City of Appleton, Wisconsin:

**FOX CITIES AREA ROOM TAX COMMISSION**

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

And: \_\_\_\_\_  
Its: \_\_\_\_\_

**FIRST AMENDMENT TO**  
**AMENDED AND RESTATED**  
**ROOM TAX COMMISSION AND TOURISM ZONE AGREEMENT**

Dated as of [April 1], 2018

by and among

THE MUNICIPALITIES NAMED HEREIN

and the

FOX CITIES AREA ROOM TAX COMMISSION

**FIRST AMENDMENT TO AMENDED AND RESTATED  
ROOM TAX COMMISSION AND TOURISM ZONE AGREEMENT**

This FIRST AMENDMENT TO AMENDED AND RESTATED ROOM TAX COMMISSION AND TOURISM ZONE AGREEMENT, dated as of [April 1], 2018 (this “**First Amendment**”), by and among the CITY OF APPLETON, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Appleton**”), the CITY OF KAUKAUNA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kaukauna**”), the CITY OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**City of Neenah**”), the VILLAGE OF KIMBERLY, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kimberly**”), the VILLAGE OF LITTLE CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Little Chute**”), the TOWN OF GRAND CHUTE, WISCONSIN, a Wisconsin political subdivision (“**Grand Chute**”), the TOWN OF NEENAH, WISCONSIN, a Wisconsin political subdivision (“**Town of Neenah**”), the VILLAGE OF FOX CROSSING, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Fox Crossing**”), the CITY OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Menasha**”), and the VILLAGE OF SHERWOOD, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Sherwood**” and, collectively with Appleton, Kaukauna, City of Neenah, Kimberly, Little Chute, Grand Chute, Town of Neenah, Fox Crossing, and Menasha, the “**Municipalities**”), and the FOX CITIES AREA ROOM TAX COMMISSION, an authority formed pursuant to the powers provided in Section 66.0615 of the Wisconsin Statutes (the “**Commission**”), is an amendment to the Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of November 24, 2015, by and among the Municipalities and the Commission (the “**Commission Agreement**”). *Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Commission Agreement.*

**RECITALS**

WHEREAS, the Municipalities (including the Town of Menasha, Wisconsin as the predecessor to Fox Crossing) and the Commission have entered into the Commission Agreement; and

WHEREAS, subsequent to the date of the Commission Agreement, certain facts and assumptions contemplated in the Commission Agreement have changed, including that the bonds contemplated to be issued (the “**Exhibition Center Bonds**”) to finance the Fox Cities Exhibition Center (the “**Exhibition Center**”) have not yet been issued, Appleton has constructed the Exhibition Center with its own funds, the PAC Bonds have been paid in full and the Amended and Restated Pledge and Security Agreement relating to the PAC Bonds has been terminated, the Room Tax Act has been amended, and the Town of Menasha, Wisconsin, a party to the Commission Agreement, has been incorporated as the Village of Fox Crossing, Wisconsin; and

WHEREAS, each Municipality has adopted an ordinance imposing a 10% Room Tax, allocated as described in the Commission Agreement; and

WHEREAS, the Commission has contracted with the Fox Cities Convention & Visitors Bureau, Inc. (the “**CVB**”), as a tourism entity, to obtain staff, support services and

assistance in developing and implementing programs to promote the zone to visitors and to receive and administer certain of the 10% Room Taxes on behalf of the Room Tax Commission pursuant to the Tourism Entity Agreement dated as of December 31, 2015, between the CVB and the Room Tax Commission, as amended by a First Amendment to Tourism Entity Agreement, dated as of [April 1], 2018 (the “**Tourism Entity Agreement**”).

WHEREAS, the Municipalities, the Commission, and Redevelopment Authority of the City of Appleton, Wisconsin (the “**Authority**”) have entered into an Amended and Restated Cooperation Agreement for the Fox Cities Exhibition Center, dated as of [April 1], 2018 (the “**Amended and Restated Exhibition Center Cooperation Agreement**”), which amends and restates the Exhibition Center Cooperation Agreement, dated as of November 24, 2015, in its entirety; and

WHEREAS, the Municipalities and the Commission have entered into a Pledge and Security Agreement, dated as of [April 1], 2018 (the “**Pledge and Security Agreement**”), with Associated Trust Company, National Association, as trustee (the “**Trustee**”), pursuant to which the 3% Room Tax imposed for the payment of the Exhibition Center Bonds shall be forwarded directly to the Trustee by the Operators; and

WHEREAS, the Exhibition Center Bonds are being issued contemporaneously with the execution and delivery of this First Amendment; and

WHEREAS, the Municipalities and the Commission desire that the Commission Agreement be amended to reflect current facts, circumstances, and documents;

NOW, THEREFORE in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

**Section 1.     References to Certain Terms.**

Certain terms in the Commission Agreement shall be revised as follows:

- (a) References in the Commission Agreement to “this Amended and Restated Room Tax Commission and Tourism Zone Agreement” or “this Agreement” shall be deemed to refer to the Commission Agreement as amended by this First Amendment.
- (b) References in the Commission Agreement, including as amended hereby, to the “Exhibition Center Cooperation Agreement dated of even date herewith” or to the “Exhibition Center Cooperation Agreement” shall be deemed to refer to the Amended and Restated Exhibition Center Cooperation Agreement.

**Section 2.     Amendments to Agreement.**

- (a) **Section 5 is amended in its entirety to read as follows:**

Imposition of Room Tax. Pursuant to the Room Tax Act, each municipality that imposes a Room Tax in the Fox Cities Tourism Zone shall levy the same percentage of Room



Tax. If the Municipalities are unable to agree on the percentage of tax to be levied in the Fox Cities Tourism Zone, then the Fox Cities Room Tax Commission shall set the percentage. The Municipalities have each adopted an ordinance that imposed a 10% Room Tax. Pursuant to subsection (1m)(am)(3) of the Room Tax Act, the parties hereto find and agree that (i) each Municipality is located in a county or counties having a population of less than 380,000, (ii) the counties in which the Municipalities are located are not located adjacent to any county with a population of over 380,000, and (iii) the Municipalities have worked cooperatively to construct and finance the Exhibition Center.

(b) **Section 7 is amended in its entirety to read as follows:**

Collection of Room Tax. Each Municipality shall cause each Operator within its jurisdiction to collect the 10% Room Tax imposed by such Municipality pursuant to its ordinance (the “Ordinance”). The 10% Room Tax is comprised of (i) a 3% Room Tax collected for the support of the CVB (the “CVB Room Tax”), (ii) the 2% PAC Room Tax for the development and support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone, (iii) a 3% Room Tax collected for the direct or indirect payment of the costs of construction of the Exhibition Center or debt service on bonds (the “Exhibition Center Bonds”) issued to finance or refinance the Exhibition Center (the “Exhibition Center Room Tax”), (iv) a 1% Room Tax collected for general purposes, including, but not limited to tourism support and development in the Municipality (the “Municipal Room Tax”), and (v) 1% Room Tax collected for the development and support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone (the “Tourism Facilities Room Tax”). Pursuant to the Ordinances, the Exhibition Center Room Tax shall sunset upon payment in full of all outstanding Exhibition Center Bonds and thereafter the 10% Room Tax shall be reduced by 3%, with such reduction being deemed to be the share of the Room Tax allocated to the Exhibition Center Room Tax. The Municipalities acknowledge that, because the PAC Bonds have been paid in full, the PAC Room Tax and the Tourism Facilities Room Tax are dedicated to the same purposes; however they are assigned separate payment priorities in Section 9 hereof and in the Ordinances.

The Municipalities shall cause each Operator to forward the Exhibition Center Room Tax directly to Associated Trust Company, National Association, or its successor as trustee for the Exhibition Center Bonds (the “Trustee”), quarterly no later than each January 31, April 30, July 31, and October 31 pursuant to the Pledge and Security Agreement, dated as of [April 1], 2018 (the “Pledge and Security Agreement”), entered into by and among the Municipalities, the Fox Cities Room Tax Commission, and the Trustee.

Each Municipality shall distribute the remaining 7% Room Tax collected as follows:

- a. 95% of the 3% CVB Room Tax shall be forwarded by the Municipality to the CVB on behalf of the Fox Cities Room Tax Commission;

- b. 5% of the 3% CVB Room Tax may be retained by the Municipality for general purposes, including, but not limited to tourism support and development in the Municipality in accordance with the requirements of the Room Tax Act;
- c. the 2% PAC Room Tax shall be forwarded by the Municipality to the CVB on behalf of the Fox Cities Room Tax Commission;
- d. the 1% Municipal Room Tax shall be retained the Municipality; and
- e. the 1% Tourism Facilities Room Tax shall be forwarded by the Municipality to the CVB on behalf of the Fox Cities Room Tax Commission.

(c) **Section 8 is amended in its entirety to read as follows:**

Use of Room Tax. The 95% portion of the CVB Room Tax, the PAC Room Tax, and the Tourism Facilities Room Tax received by the Fox Cities Room Tax Commission shall be utilized as described in Section 7.a., c., and e. The 5% portion of the CVB Room Tax and the Municipal Room Tax retained by the Municipalities shall be utilized as described in Section 7.b. and d. The Exhibition Center Room Tax shall be utilized as described in the Pledge and Security Agreement.

Notwithstanding the foregoing, the parties agree that (i) the Exhibition Center Room Tax received by the CVB on behalf of the Fox Cities Room Tax Commission, or by the Fox Cities Room Tax Commission or any Municipality received from January 1, 2016 through [\_\_\_\_\_, 2018] [the Effective Date of the First Amendment] shall be applied as provided in the Exhibition Center Cooperation Agreement, (ii) funds held by the trustee for the PAC Bonds in the amount of \$750,000 shall also be applied as provided in the Exhibition Center Cooperation Agreement, and all remaining funds held by such trustee shall be applied to the purposes for which the PAC Room Tax is to be applied, and (iii) at the time all outstanding Exhibition Center Bonds are fully satisfied, any excess Exhibition Center Room Tax collected but not needed for the payment of the Exhibition Center Bonds or any reimbursement due to Appleton or to a Bond Guarantor, as defined in and pursuant to the Exhibition Center Cooperation Agreement, shall be reallocated to [\_\_\_\_\_] (the “**Tourism Development Fund**”) for use of tourism promotion and tourism development in the Fox Cities Tourism Zone.

(d) **Section 9 is amended in its entirety to read as follows:**

Priority of Payment. In the event any Operator fails to remit to the Trustee or to the Municipality the Room Tax for a period of one calendar quarter, or is in arrears by one calendar quarter or more after any January 31, April 30, July 31, or October 31 quarterly payment date, or in the event the Municipality fails to remit to the CVB on behalf of the Room Tax Commission, the applicable remaining Room Tax described in Section 7 within [10 business days] after receipt of such quarterly payment (a “Deficient Payment”) under this Agreement, the Pledge and Security Agreement, and the ordinances imposing the Room Tax, the Deficient Payment amounts actually received by the Municipality, the Trustee, or the CVB on behalf of the Fox Cities Room Tax Commission shall be applied in the following priority order:

- a. *First*, toward the payment of the 3% CVB Room Tax;
- b. *Second*, toward the payment of the 2% PAC Room Tax;
- c. *Third*, toward the payment of the 3% Exhibition Center Room Tax (for so long as it is being collected);
- d. *Fourth*, toward the payment of the 1% Municipal Room Tax; and
- e. *Fifth*, toward the payment of the 1% Tourism Facilities Room Tax.

(e) **The introduction to Section 12 is amended to read as follows:**

Powers and Duties. The Fox Cities Room Tax Commission shall have the powers, rights, and duties as provided for a “commission” in the Room Tax Act, including:

(f) **Subsection 12(c) is amended to read as follows:**

c. To report, or cause the CVB to report, no less than annually to each Municipality from which it received Room Taxes, the purposes for which the revenues were spent and the information required to be reported to the Wisconsin Department of Revenue (the “DOR”) under subsection (4) of the Room Tax Act; *provided, however*, that such report shall be delivered to each Municipality so that it may timely comply with its required annual certification to the DOR due on or before each May 1.

(g) **Section 13 is amended in its entirety to read as follows:**

Additional Municipalities. It is anticipated that from time to time the geographic area comprising the Fox Cities Tourism Zone may change such that additional municipalities not party to this Agreement may become part of the Fox Cities Tourism Zone. The Fox Cities Room Tax Commission shall use its best efforts to encourage and accept such additional municipalities (each, an “Additional Municipality”) to become a member of the Fox Cities Room Tax Commission. Each Additional Municipality shall be required, as a condition to becoming a member of the Fox Cities Room Tax Commission, to impose by ordinance the 10% Room Tax as described in Sections 7 and 9 hereof (or, after the termination of the Exhibition Center Room Tax, a 7% Room Tax), and for so long as the Exhibition Center Bonds remain outstanding, to become a party to the Pledge and Security Agreement and the Exhibition Center Cooperation Agreement. Each Additional Municipality shall become bound to the terms, conditions, and obligations of the Municipalities hereunder by execution of a joinder agreement, in substantially the form attached hereto as Exhibit B, accepted by the Fox Cities Room Tax Commission, which shall provide a copy of such joinder agreement to the other then-current parties to this Agreement.

(h) **Section 14 is amended in its entirety to read as follows:**

Municipal Action. The Municipalities shall enact such ordinances and/or resolutions as are necessary to satisfy the terms of this Agreement and to effect any provisions of this Agreement.

(i) **Exhibit B is added to the Commission Agreement, to read as set forth in Exhibit A to this First Amendment.**

**Section 3. Effective Date; Ratification of Agreement.**

The amendment to the Commission Agreement contained herein shall be effective as of the date of this First Amendment. Except as expressly provided in this First Amendment, the provisions of the Commission Agreement shall remain in full force and effect.

**Section 4. Counterparts; Headings.**

This First Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The section headings in this First Amendment are for convenience only and in no way define, limit or describe the scope or intent of any provision of this First Amendment.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**CITY OF APPLETON, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Appleton  
Attention: Director of Finance  
100 North Appleton Street  
Appleton, Wisconsin 54911

Email: tony.saucerman@appleton.org

[Signature Page to First Amendment to Amended and Restated  
Room Tax Commission and Tourism Zone Agreement – Appleton]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**CITY OF KAUKAUNA, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Kaukauna  
Attention: Clerk-Treasurer  
201 West Second Street  
Kaukauna, Wisconsin 54130

Email: clerk-treasurer@kaukauna.org

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**CITY OF NEENAH, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Neenah  
Attention: Finance Director  
211 Walnut Street  
Neenah, Wisconsin 54956

Email: measker@ci.neenah.wi.us

[Signature Page to First Amendment to Amended and Restated  
Room Tax Commission and Tourism Zone Agreement – City of Neenah]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**VILLAGE OF KIMBERLY, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Kimberly  
Attention: Village Administrator  
515 West Kimberly Avenue  
Kimberly, Wisconsin 54136

Email: dblock@vokimberly.org

[Signature Page to First Amendment to Amended and Restated  
Room Tax Commission and Tourism Zone Agreement – Kimberly]



IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**VILLAGE OF LITTLE CHUTE, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Little Chute  
Attention: Village Administrator  
108 West Main Street  
Little Chute, Wisconsin 54140

Email: jfenlon@littlechutewi.org

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**TOWN OF GRAND CHUTE, WISCONSIN**

By: \_\_\_\_\_  
Its: Chairperson

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Town of Grand Chute  
Attention: Town Administrator  
1900 West Grand Chute Boulevard  
Grand Chute, Wisconsin 54913

Email: jim.march@grandchute.net

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**TOWN OF NEENAH, WISCONSIN**

By: \_\_\_\_\_  
Its: Chairperson

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Town of Neenah  
Attention: Clerk-Treasurer  
1600 Breezewood Lane  
Neenah, Wisconsin 54956

Email: ellen@townofneenah.com

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**VILLAGE OF FOX CROSSING, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Fox Crossing  
Attention: Village Administrator  
2000 Municipal Drive  
Neenah, Wisconsin 54956

Email: [jsturgell@foxcrossingwi.gov](mailto:jsturgell@foxcrossingwi.gov)

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**CITY OF MENASHA, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Menasha  
Attention: Director of Administrative Services/Comptroller/Treasurer  
140 Main Street  
Menasha, Wisconsin 54952

Email: jjacobs@ci.menasha.wi.us

[Signature Page to First Amendment to Amended and Restated  
Room Tax Commission and Tourism Zone Agreement – Menasha]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**VILLAGE OF SHERWOOD, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Sherwood  
Attention: Village Administrator  
W482 Clifton Road  
Sherwood, Wisconsin 54169

Email: administrator.sherwood@newbc.rr.com

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

**FOX CITIES AREA ROOM TAX COMMISSION**

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

[And: \_\_\_\_\_  
Its: \_\_\_\_\_]

ADDRESS:

Fox Cities Area Room Tax Commission  
Attention: Chairperson  
c/o Fox Cities Convention & Visitors Bureau  
3433 West College Avenue  
Appleton, Wisconsin 54914

Email: bruce.sherman@grandchute.net

[Signature Page to First Amendment to Amended and Restated  
Room Tax Commission and Tourism Zone Agreement – Sherwood]

**EXHIBIT B**

**JOINDER AGREEMENT**

**AMENDED AND RESTATED  
ROOM TAX COMMISSION AND TOURISM ZONE AGREEMENT**

The undersigned municipality hereby agrees that it shall be an Additional Municipality as defined in the Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of November 24, 2015, among the Fox Cities Area Room Tax Commission and the municipal members of such commission as amended by a First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of [April 1], 2018 (collectively, the “**Agreement**”), and hereby agrees to be bound by the terms, conditions, and obligations of the Municipalities under the Agreement, as amended from time to time. On and after the date of this Joinder Agreement, the undersigned shall be deemed a Municipality under the Agreement.

IN WITNESS WHEREOF, the undersigned Municipality has duly executed this Joinder Agreement effective as of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ OF \_\_\_\_\_, WISCONSIN

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

And: \_\_\_\_\_  
Its: \_\_\_\_\_

ADDRESS:

\_\_\_\_\_ of \_\_\_\_\_  
Attention: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, Wisconsin \_\_\_\_\_

Email: \_\_\_\_\_



Accepted on behalf of itself and the Municipalities:

**FOX CITIES AREA ROOM TAX COMMISSION**

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

And: \_\_\_\_\_  
Its: \_\_\_\_\_

Dated as of [April 1], 2018

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**PLEDGE AND SECURITY AGREEMENT**

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Relating To:

FOX CITIES EXHIBITION CENTER

## **PLEDGE AND SECURITY AGREEMENT**

THIS PLEDGE AND SECURITY AGREEMENT, dated as of [April 1], 2018 (this “**Agreement**”), is made and entered into by and among the CITY OF APPLETON, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Appleton**”), the CITY OF KAUKAUNA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kaukauna**”), the CITY OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**City of Neenah**”), the VILLAGE OF KIMBERLY, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kimberly**”), the VILLAGE OF LITTLE CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Little Chute**”), the TOWN OF GRAND CHUTE, WISCONSIN, a Wisconsin political subdivision (“**Grand Chute**”), the TOWN OF NEENAH, WISCONSIN, a Wisconsin political subdivision (“**Town of Neenah**”), the VILLAGE OF FOX CROSSING, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Fox Crossing**”), the CITY OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Menasha**”), and the VILLAGE OF SHERWOOD, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Sherwood**”), collectively with Appleton, Kaukauna, City of Neenah, Kimberly, Little Chute, Grand Chute, Town of Neenah, Fox Crossing, Menasha, and Sherwood (the “**Municipalities**”), the FOX CITIES AREA ROOM TAX COMMISSION, a Wisconsin intergovernmental commission (the “**Room Tax Commission**”), and ASSOCIATED TRUST COMPANY, NATIONAL ASSOCIATION, a national bank organized under the laws of the United States of America, as trustee under the Bond Indenture (as defined herein) (together with its successors in such capacity, the “**Trustee**”).

### **RECITALS:**

WHEREAS, pursuant to Section 66.0615 of the Wisconsin Statutes, as amended (the “**Room Tax Act**”), each of the Municipalities has imposed a room tax at a percentage rate of 3% (the “**Exhibition Center Room Tax**”), which the Municipalities have agreed to cause to be collected by the hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public and obligated to collect the Exhibition Center Room Tax (the “**Operators**”); and

WHEREAS, the Municipalities, the Room Tax Commission, and the Redevelopment Authority of the City of Appleton, Wisconsin (the “**Authority**”), are parties to an Amended and Restated Cooperation Agreement for the Fox Cities Exhibition Center, dated as of [April 1], 2018 (the “**Cooperation Agreement**”); and

WHEREAS, under the terms of the Cooperation Agreement:

- (a) Appleton will convey to the Authority the Fox Cities Exhibition Center, a convention center (the “**Exhibition Center**”) as referenced in the Room Tax Act; and
- (b) to assist in the financing of the Exhibition Center, the Authority will issue its Taxable Lease Revenue Bonds, Series 2018 (Fox Cities Exhibition Center Project) (the “**Series 2018 Bonds**”) the proceeds of which will be

made available to pay, or reimburse Appleton for, the construction costs of the Exhibition Center; and

- (c) the Municipalities and the Room Tax Commission have agreed to the use of the Exhibition Center Room Taxes for the purposes of paying, either directly or indirectly, the costs of the construction of the Exhibition Center, debt service on the Series 2018 Bonds and any additional bonds issued by the Authority for the purpose of refinancing or refunding the Series 2018 Bonds, directly or indirectly through a series of refinancings or refundings (collectively, the “**Bonds**”), and such other reasonable or customary payments or deposits related to the Bonds as may be provided in the Bond Indenture, such as, but not limited to, costs of issuance and administration of the Bonds, reserve or stabilization funds, capitalized interest payments, if any, and reimbursement of payments made by Appleton or a provider of credit enhancement for the Bonds, all subject to any restrictions related thereto in the Room Tax Act (collectively, the “**Purposes of the Exhibition Center Room Taxes**”); and
- (d) the Municipalities and the Room Tax Commission agree to pledge the Exhibition Center Room Taxes to the Trustee for the Purposes of the Exhibition Center Room Taxes; and
- (e) all parties to the Cooperation Agreement found, and reaffirm herein, that the Exhibition Center constitutes a “convention center” and is, and will be, crucial to “tourism promotion and tourism development” within the meaning of the Room Tax Act, and the achievement of a sound and coordinated development and redevelopment of the territory described as the “Tourism Zone” in the Cooperation Agreement and for the promotion and development of tourism activities within the Tourism Zone; and

WHEREAS, the terms and conditions of this Agreement are in compliance with the Room Tax Act; and

WHEREAS, the execution and delivery of this Agreement have been in all respects duly and validly authorized by resolutions of the governing bodies of the Municipalities and the Room Tax Commission; and

WHEREAS, all procedures necessary to constitute this Agreement as a valid pledge and assignment of the Exhibition Center Room Taxes have been done and performed;

NOW, THEREFORE, THE PARTIES TO THIS AGREEMENT AGREE AS FOLLOWS:

## ARTICLE I

### PLEDGE AND ASSIGNMENT OF PLEDGED ROOM TAXES TO THE TRUSTEE

The Municipalities and the Room Tax Commission do hereby pledge, sell, assign, transfer, and set over unto the Trustee, all their respective right, title, and interest in and to all Exhibition Center Room Taxes, subject to any limitations imposed thereon by the Room Tax Act, for the Purposes of the Exhibition Center Room Taxes. The Exhibition Center Room Taxes shall not be used for any purpose other than the Purposes of the Exhibition Center Room Taxes set forth in the recitals of this Agreement. The pledge and assignment hereunder shall remain in full force and effect until the full discharge of the Indenture of Trust, dated as of [April 1], 2018, from the Authority to the Trustee (the “**Bond Indenture**”), pursuant to which the Series 2018 Bonds are being issued and pursuant to which additional Bonds may be issued to refinance or refund (i) the Series 2018 Bonds or (ii) any other Bonds.

## ARTICLE II

### DEPOSIT OF EXHIBITION CENTER ROOM TAXES WITH TRUSTEE

#### Section 2.01 Deposit of Room Taxes.

The Municipalities, the Room Tax Commission, and the Trustee hereby agree and direct that, in order to effect the pledges of the Exhibition Center Room Taxes hereunder, all Exhibition Center Room Taxes imposed by the Municipalities shall be deposited directly with the Trustee by the Operators, and shall be applied to the Purposes of the Exhibition Center Room Taxes as specified in the Bond Indenture.

The deposit of Exhibition Center Room Taxes with the Trustee shall be in accordance with the following procedure:

(a) Notice to Operators. No later than the 10<sup>th</sup> day of the month following the end of each calendar quarter, the Trustee shall send a notice in substantially the form attached hereto as Exhibit A (or with such changes as may be necessary or appropriate to reflect changes in room taxes other than the Exhibition Center Room Tax) (a “**Room Tax Deposit Notice**”) to each Operator to be completed and delivered to the Trustee together with the deposit of the Exhibition Center Room Taxes it has collected during the preceding calendar quarter as described in (b) below.

(b) Room Tax Due Dates. Each Operator shall be directed to deposit with the Trustee, no later than January 31, April 30, July 31, and October 31 of each year, together with a completed Room Tax Deposit Notice as described in (a) above, the Exhibition Center Room Taxes it has collected during the preceding calendar quarter. The Trustee shall accept the Exhibition Center Room Taxes for deposit in accordance with the terms of this Agreement and of the Bond Indenture.

(c) Application of Pledged Room Tax Deposits. The Trustee shall, upon receipt of deposits of the Exhibition Center Room Taxes, allocate such deposits to the Revenue Fund created under the Bond Indenture for the Purposes of the Exhibition Center Room Taxes.

## **Section 2.02 Trustee Reports.**

The Trustee shall (i) not later than the 15th day of each month, send a report as of the last day of the prior month to the Room Tax Commission and to each Municipality, that includes a list of the then current Operators that submit Exhibition Center Room Taxes, and the amount of Exhibition Center Room Taxes received from each Operator, and identifies the Operators that have not paid Exhibition Center Room Taxes then due under Section 2.01(b) (the “**Monthly Report**”), (ii) not later than the 15th day of the month following the end of each calendar quarter, send a statement of transactions to each Municipality and the Room Tax Commission that includes all financial transactions relating to the Municipality as of the end of the calendar quarter (the “**Quarterly Statement**”), and (iii) not later than the 15th day of the month following each due date of the Exhibition Center Room Taxes described in Section 2.01(b) hereof, send a list to the Room Tax Commission, with a copy to the related Municipality, of the Operators in each Municipality that have not paid Exhibition Center Room Taxes as of such due date (the “**Delinquency Report**”).

## **Section 2.03 Collection of Room Taxes; Late Payments.**

(a) Each of the Municipalities agrees to direct all Operators within its jurisdiction to deposit all Exhibition Center Room Taxes with the Trustee pursuant to the terms of this Agreement and the instructions of the Trustee. Each Municipality agrees to forward to the Trustee, immediately upon receipt, any payments of Exhibition Center Room Taxes made by an Operator directly to such Municipality, and the Room Tax Commission agrees to forward to the Trustee, immediately upon receipt, any payments of Exhibition Center Room Taxes made by a Municipality or an Operator directly to the Room Tax Commission or the Fox Cities Convention & Visitors Bureau, Inc. (“**CVB**”) on behalf of the Room Tax Commission. The Municipality may request from the Trustee the form of Room Tax Deposit Notice as described in Section 2.01(a) hereof to accompany such payments.

(b) If an Operator has not paid Exhibition Center Room Taxes for a period of one calendar quarter or is in arrears by one calendar quarter or more, then an authorized officer of the related Municipality shall, within 30 days after the receipt of the first Monthly Report after a Delinquency Report has been received from the Trustee, commence collection and enforcement action against such Operator; *provided* that said Monthly Report shows Exhibition Center Room Taxes remain unpaid by such Operator.

(c) Each of the Municipalities agrees to commence such collection and enforcement action as described in (b) above and to take all reasonable action to diligently pursue such action and to collect the Exhibition Center Room Taxes

with any applicable/corresponding forfeiture or interest charge for late payment. Each Municipality agrees to send a written notice to the Room Tax Commission, within 10 days after receipt of a Monthly Report as described in (b) above, describing the status of such action and collection until the Exhibition Center Room Taxes have been collected from the Operator. Upon such collection, the Municipalities shall, within 20 business days, deposit with the Trustee the collected Exhibition Center Room Taxes, subject to the deficient payments allocation described in (e) below, and any applicable/corresponding forfeiture or interest charge; which shall be treated as part of the Exhibition Center Room Taxes. All costs of collection and enforcement actions relating to any such Exhibition Center Room Taxes shall (except to the extent they may be recovered from Operators) be the sole responsibility of the related Municipality.

(d) Notwithstanding (b) and (c) above, the Trustee shall have the right, with the consent of the Room Tax Commission, to demand that any such Exhibition Center Room Taxes paid by the Operators but not deposited with the Trustee be immediately deposited with the Trustee in accordance with this Article II .

(e) Pursuant to the Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of November 24, 2015, as amended by a First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of [April 1], 2018 (the “**Commission Agreement**”) and the ordinances adopted by the Municipalities imposing a 10% room tax (the “**Room Taxes**”), which includes the Exhibition Center Room Tax, provision was made for delinquent Room Taxes received from the Operators to be allocated in a specific order to the purposes for which the Room Taxes were imposed. Upon receipt of notice from a Municipality, the Room Tax Commission, or the CVB with respect to such allocation of delinquent Room Taxes, the Trustee agrees that it shall cooperate with said parties in the application of delinquent Exhibition Center Room Taxes that it has received to the allocation to the purposes entitled to a payment priority over the Exhibition Center Room Taxes.

#### **Section 2.04 Failure of Operator Not a Default of Municipality.**

A failure of an Operator to timely pay Exhibition Center Room Taxes shall not constitute a default of a Municipality hereunder provided that the Municipality, in accordance with Section 2.03 above, promptly undertakes and pursues all reasonable collection actions until such delinquent Exhibition Center Room Taxes are collected and deposited with the Trustee.

#### **Section 2.05 Statutory Obligations of Room Tax Commission.**

The Room Tax Commission has determined, and the Municipalities agree, that the actions of the Trustee under this Agreement fulfill the statutory obligations of the Room Tax Commission (i) to monitor the collection of room taxes from each Municipality and (ii) to report any delinquencies or inaccurate reporting to the Municipality that is due the tax, as such obligations relate to the Exhibition Center Room Tax.

**ARTICLE III**  
**REPRESENTATIONS, WARRANTIES,**  
**AND COVENANTS**

Each of the Municipalities and the Room Tax Commission hereby represents and warrants to the Trustee that it has good right and authority to enter into this Agreement; that as of the date of this Agreement it has not alienated, assigned, pledged, or otherwise disposed of or encumbered any of the Exhibition Center Room Taxes, and that it has not performed any acts or executed any other instruments which might prevent the Trustee from receiving any Exhibition Center Room Taxes under any of the terms and conditions of this Agreement or which would limit the Trustee in such receipt.

Each of the Municipalities and the Room Tax Commission hereby covenants and agrees:

- (a) to observe, perform, and discharge, duly and punctually, all and singular, the obligations, terms, covenants, conditions, and warranties of this Agreement on its part to be kept, observed, and performed;
- (b) that it will, upon the request of the Trustee, execute and deliver to the Trustee such further instruments and do and perform such other acts and procedures as the Trustee may deem necessary or appropriate to make effective this Agreement and its various covenants herein contained and to more effectively vest in and secure to the Trustee the Exhibition Center Room Taxes, including without limitation, the execution of such additional assignments as shall be deemed necessary by the Trustee to effectively vest in and secure the Exhibition Center Room Taxes;
- (c) that it will take any and all action reasonably necessary to enforce its room tax levies and collect all room taxes from the Operators within its jurisdiction. Such actions shall include, if necessary, commencing suit or other action to recover delinquent room taxes; and
- (d) that it will not repeal any or all of the Exhibition Center Room Tax or amend the Commission Agreement in any manner that affects the Trustee's right to receive the Exhibition Center Room Tax.

**ARTICLE IV**  
**MISCELLANEOUS**

**Section 4.01 Counterparts.**

This Agreement may be executed, acknowledged, and delivered in any number of counterparts, each of which shall constitute an original, but all together only one, instrument. The laws of the State of Wisconsin shall govern this Agreement.



#### **Section 4.02 Severability.**

If any term, covenant, or condition of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement and the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law. In the event of any ambiguity in any terms or provisions of this Agreement, such ambiguity shall be construed in favor of the Trustee, notwithstanding any rules of construction to the contrary.

Nothing contained in this Agreement, the Cooperation Agreement, or the Bond Indenture shall in any manner be construed as making the parties hereto and thereto or their assignees partners.

#### **Section 4.03 Additional Parties to this Agreement.**

Any municipal government that hereafter becomes an additional member of the Room Tax Commission (an “**Additional Municipality**”) pursuant to the Commission Agreement shall, as a condition of such membership under the Commission Agreement, become an additional party to this Agreement. Each Additional Municipality shall be bound to the terms, conditions, and obligations of the Municipalities under this Agreement by execution and delivery to the Trustee of a joinder agreement in substantially the form attached hereto as Exhibit B, and a copy of the executed joinder agreement shall be delivered by the Trustee to the other then-current parties to this Agreement. Acceptance by the Trustee of such joinder agreement shall, without further action or approval of the parties to this Agreement, be deemed an approval of such Additional Municipality as an additional party to this Agreement by the then-current parties to this Agreement.

#### **Section 4.04 Amendments to this Agreement.**

This Agreement may be amended from time to time by a written instrument for any purpose not inconsistent with the terms of the Bond Indenture or to cure any ambiguity or to correct or supplement any provision contained in this Agreement which may be defective or inconsistent with any other provision contained in this Agreement or to make such other provisions as shall not be inconsistent with the provisions of the Bond Indenture and shall not, in the judgment of the Trustee, adversely affect the interests of the owners of the Bonds.

#### **Section 4.05 Termination.**

This Agreement shall terminate upon the discharge and termination of the Bond Indenture. The Trustee shall notify the Room Tax Commission and each Municipality of such termination and discharge.

**Section 4.06 Notices.**

Any notice, request, report, statement, or other communication to be given pursuant to this Agreement, shall be sufficiently given, and shall be deemed given, when hand delivered or sent by first class mail, email, or overnight delivery service as follows:

If to the Room Tax Commission at:

Fox Cities Area Room Tax Commission  
Attention: Chairperson  
c/o Fox Cities Convention & Visitors Bureau  
3433 West College Avenue  
Appleton, Wisconsin 54914  
Phone: (800) 236-6673  
Email: bruce.sherman@grandchute.net

If to the Trustee at:

Associated Trust Company, National Association  
Attention: Corporate Trust Department  
200 North Adams Street  
Green Bay, Wisconsin 54301  
Phone: (920) 433-3275  
Email: eric.wied@associatedbank.com

If to a Municipality, at the address indicated beneath the signature to this Agreement of such Municipality.

Any party may, by written notice to the other parties, designate a change of address for the purposes aforesaid.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, the parties have caused this Pledge and Security Agreement to be duly executed and delivered as of the date first written above.

**FOX CITIES AREA ROOM TAX COMMISSION**

By: \_\_\_\_\_  
Its Chairperson

And: \_\_\_\_\_  
Its Secretary

**ASSOCIATED TRUST COMPANY, NATIONAL  
ASSOCIATION, as trustee**

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

And: \_\_\_\_\_  
Its \_\_\_\_\_

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

**CITY OF APPLETON, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Appleton  
Attention: Director of Finance  
100 North Appleton Street  
Appleton, Wisconsin 54911

Email: [tony.saucerman@appleton.org](mailto:tony.saucerman@appleton.org)

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

**CITY OF KAUKAUNA, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Kaukauna  
Attention: Clerk-Treasurer  
201 West Second Street  
Kaukauna, Wisconsin 54130

Email: clerk-treasurer@kaukauna.org

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

**CITY OF NEENAH, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Neenah  
Attention: Finance Director  
211 Walnut Street  
Neenah, Wisconsin 54956

Email: measker@ci.neenah.wi.us

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

**VILLAGE OF KIMBERLY, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Kimberly  
Attention: Village Administrator  
515 West Kimberly Avenue  
Kimberly, Wisconsin 54136

Email: dblock@vokimberly.org

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

**VILLAGE OF LITTLE CHUTE, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Little Chute  
Attention: Village Administrator  
108 West Main Street  
Little Chute, Wisconsin 54140

Email: [jfenlon@littlechutewi.org](mailto:jfenlon@littlechutewi.org)



IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

**TOWN OF GRAND CHUTE, WISCONSIN**

By: \_\_\_\_\_  
Its: Chairperson

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Town of Grand Chute  
Attention: Town Administrator  
1900 West Grand Chute Boulevard  
Grand Chute, Wisconsin 54913

Email: jim.march@grandchute.net

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

**TOWN OF NEENAH, WISCONSIN**

By: \_\_\_\_\_  
Its: Chairperson

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Town of Neenah  
Attention: Clerk-Treasurer  
1600 Breezewood Lane  
Neenah, Wisconsin 54956

Email: ellen@townofneenah.com

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

**VILLAGE OF FOX CROSSING, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Fox Crossing  
Attention: Village Administrator  
2000 Municipal Drive  
Neenah, Wisconsin 54956

Email: [jsturgell@foxcrossingwi.gov](mailto:jsturgell@foxcrossingwi.gov)

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

**CITY OF MENASHA, WISCONSIN**

By: \_\_\_\_\_  
Its: Mayor

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

City of Menasha  
Attention: Director of Administrative Services/Comptroller/Treasurer  
140 Main Street  
Menasha, Wisconsin 54952  
  
Email: jjacobs@ci.menasha.wi.us

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

**VILLAGE OF SHERWOOD, WISCONSIN**

By: \_\_\_\_\_  
Its: President

And: \_\_\_\_\_  
Its: Clerk

ADDRESS:

Village of Sherwood  
Attention: Village Administrator  
W482 Clifton Road  
Sherwood, Wisconsin 54169

Email: administrator.sherwood@newbc.rr.com

**EXHIBIT A**

**ROOM TAX DEPOSIT NOTICE**

FOR THE CALENDAR QUARTER ENDING \_\_\_\_\_, 20\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

Associated Trust Company, National Association  
Attention: Corporate Trust Operations  
2985 South Ridge Road, Suite C  
Green Bay, Wisconsin 54304

[[Enclosed are]] the Exhibition Center Room Taxes from  
\_\_\_\_\_ for the above referenced calendar quarter.

Total 10% Room Tax Receipts For Quarter: \$ \_\_\_\_\_

Distribution of 10% Room Tax:

|   |          |
|---|----------|
| 3% Room Tax (Exhibition Center Room Tax) — Amount | \$ _____ |
| [Enclosed]  |          |
| Balance Paid Directly to Municipality             | \$ _____ |

If you have any questions, please feel free to contact me at \_\_\_\_\_.

Sincerely,

[Name of Hotel/Motel or other lodging facility]

**EXHIBIT B**

**JOINDER AGREEMENT TO**

**PLEDGE AND SECURITY AGREEMENT**

The undersigned municipality hereby agrees that it shall be an Additional Municipality as defined in the Pledge and Security Agreement, dated as of [April 1], 2018 (the “**Agreement**”),, among the Fox Cities Area Room Tax Commission, the municipal members of such commission and Associated Trust Company, National Association, as trustee, and hereby agrees to be bound by the terms, conditions, and obligations of the Municipalities under the Agreement, as amended from time to time. On and after the date of this Joinder Agreement, the undersigned shall be deemed a Municipality under the Agreement.

IN WITNESS WHEREOF, the undersigned Municipality has duly executed this Joinder Agreement effective as of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ OF \_\_\_\_\_, WISCONSIN

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

And: \_\_\_\_\_  
Its: \_\_\_\_\_

ADDRESS:

\_\_\_\_\_ of \_\_\_\_\_  
Attention: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, Wisconsin \_\_\_\_\_

Email: \_\_\_\_\_

Accepted on behalf of itself, the Room Tax Commission, and the Municipalities:

ASSOCIATED TRUST COMPANY, NATIONAL ASSOCIATION, as trustee

By \_\_\_\_\_

Its: \_\_\_\_\_





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

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 Lom, Traffic Engineer  
**Date:** January 17, 2018  
**Re:** Intersection traffic control at the Carpenter Street / Roeland Avenue intersection  
*Follow-Up to Six-Month Trial Period*

As a part of a normal review, the Traffic Section recently evaluated the control at the intersection of Carpenter Street and Roeland Avenue, and subsequently initiated a six-month trial period to change from two-way stop control to all-way stop control. This intersection is located approximately five blocks east of Oneida Street and two blocks south of Taft Avenue. Roeland Avenue is functionally classified as a *collector* street to the west of this intersection, while Carpenter Street is functionally classified as a *collector* street to the north of this intersection.

In a typical intersection control study, we consider traffic volumes, crash history, safe approach speeds, pedestrian safety, etc. In this case, the estimated entering volume of this intersection is approximately 5100 vehicles per day, which yields hourly volumes that are in the range of what is recommended for all-way stop control. A review of crash records indicated two crashes for the recent five-year period of 2013 through 2017. However, the critical approach speed for the intersection was found to be approximately 11 mph, which is lower than we would like to see.

During the trial period, it was noted that the all-way stop control adequately addressed the safety issues and provided a safer place for pedestrians to cross. Further, all feedback received by my office was positive. Based on this, we recommend making the changes permanent.

**To accomplish this, the following ordinance action is required:**

1. **Create:** "Install all-way stop control at the Carpenter Street / Roeland Avenue intersection."



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

**LICENSE APPLICATION for  
OPERATOR'S (BARTENDER'S) LICENSE**

|  |         |                            |
|--|---------|----------------------------|
| <b>FEES ARE NON-REFUNDABLE</b>                           |         | Date Rec'd <u>12-28-17</u> |
| <input type="checkbox"/> Operator License                | \$60.00 | Acct. 11030.4307           |
| <input checked="" type="checkbox"/> Operator License     | \$75.00 | Acct. 11030.4307           |
| plus a provisional                                       |         |                            |
| <input checked="" type="checkbox"/> Investigation fee    | \$ 7.00 | Acct. 100.2359             |
| Total fee paid \$ <u>82</u>                              |         | Receipt <u>4782331</u>     |
| <input checked="" type="checkbox"/> Original Application |         |                            |
| <input type="checkbox"/> Renewal - License # _____       |         |                            |

**SECTION 1 - APPLICANT INFORMATION**

|   |  |                         |                                  |
|---|--|-------------------------|----------------------------------|
| Applicant Name (Last, First, MI)<br><u>Eisch Michael Sullivan</u>   |  | Maiden                  |                                  |
| Street Address  |  | City<br><u>Appleton</u> | State<br><u>WI</u>               |
| Driver's License Number/State Identification Number<br><u>E200-5578-7800-00</u>                               |  | Zip<br><u>54911</u>     |                                  |
| Date of Birth /   |  | Home Phone Number       | Cell phone Number<br><u>Same</u> |
| Name and Address of Establishment you will be selling alcohol<br><u>Martini gas station 415 S Memorial Dr</u> |  |                         |                                  |

**SECTION 2 - CONVICTION RECORD - NEW APPLICANT:** You are required to list each and every violation and/or offense for which you have been convicted. Failure to provide complete answers may result in a denial of your application.

|  |  |                                     |
|--|--|-------------------------------------|
| Have you EVER had an Operator's (Bartender's) License?                   | YES  | <input checked="" type="radio"/> NO |
| If Yes; where?   | <u>N/A</u>   |                                     |
| Have you EVER been convicted of a felony?                                | <input checked="" type="radio"/> YES                                       | <input type="radio"/> NO            |
| If Yes; when, where and what type of violation? (Please be specific)     | <u>July 2015, Winnebago Co, Possession/</u><br><u>man/deliv narcotics.</u> |                                     |
| Have you EVER been convicted of a misdemeanor or ordinance violation?    | <input checked="" type="radio"/> YES                                       | <input type="radio"/> NO            |
| If Yes; when, where and what type of violation? (Example: speeding, OWI) | <u>3rd offense dui,</u><br><u>driving after suspension,</u>                |                                     |

**SECTION 2 - CONVICTION RECORD - RENEWAL APPLICANT:** List any pending charges, citations, tickets and all convictions since last license application. Failure to provide complete answers may result in a denial of your application.

|   |       |                          |
|---|-------|--------------------------|
| Have you EVER had an Operator's (Bartender's) License?  | YES   | <input type="radio"/> NO |
| If Yes; where?  | _____ |                          |
| Have you been convicted of a felony since last license application?                             | YES   | <input type="radio"/> NO |
| If Yes; when, where and what type of violation? (Please be specific)                            | _____ |                          |
| Have you been convicted of a misdemeanor or ordinance violation since last license application? | YES   | <input type="radio"/> NO |
| If Yes; when, where and what type of violation? (Example: speeding, OWI)                        | _____ |                          |

**SECTION 3 - PENALTY NOTICE**

Under penalty of law, I swear that the information provided in this application is true and correct to the best of my knowledge and belief.

Signature: Michael Sullivan

**FOR OFFICE USE ONLY**

|  |                      |  |  |                |
|--|----------------------|--|--|----------------|
| Department                             | Approve              | Deny                                     | By   | Reason         |
| POLICE                                 |                      | <input checked="" type="checkbox"/>      | <u>Miller</u>                                |                |
| Date sent to APD<br><u>12-28-17</u>    | Scheduled FVTC Class | Class Completion Date<br><u>12-28-17</u> | Current other license:<br>Muni _____ # _____ |                |
| Safety and Licensing<br><u>2-14-18</u> | Common Council       | Date Issued                              | Expiration Date                              | License Number |

Last increase adopted 11-21-2012 Reasonable accommodations for persons with disabilities will be made upon request and if feasible.

Return application to: City Clerk, 100 N. Appleton Street, Appleton, WI 54911-4799

**Appleton Police - Consideration for Denial**  
**(electronic copy sent to LT Miller and Kami Lynch)**

| Applicant                     | License Type | Offense                      | Type        | Offense Date | Conviction Date |
|-------------------------------|--------------|------------------------------|-------------|--------------|-----------------|
| Michael S Eisch<br>08/20/1987 | Bartender    | OWI                          | Ordinance   | 03/26/09     | 5/6/09          |
|                               |              | BAC                          | Ordinance   | 12/09/09     | 1/20/10         |
|                               |              | OWI                          | Misdemeanor | 12/09/09     | 06/21/10        |
|                               |              | Urinating in Public          | Ordinance   | 09/11/10     | 10/13/10        |
|                               |              | Operating While Suspended    | Ordinance   | 09/04/15     | 09/28/15        |
|                               |              | Speeding                     | Ordinance   | 09/04/15     | 09/28/15        |
|                               |              | Operating While Suspended    | Ordinance   | 02/22/16     | 03/22/16        |
|                               |              | Manufacture/Deliver Heroin   | Felony      | 03/17/15     | 04/21/16        |
|                               |              | Possession of Narcotic Drugs | Felony      | 04/03/15     | 04/21/16        |
|                               |              | Implied Consent              | Ordinance   | 08/04/17     | 09/03/17        |
|                               |              | Hit and Run                  | Ordinance   | 08/04/17     | 09/20/17        |
|                               |              | OWI                          | Misdemeanor | 08/04/17     | 09/27/17        |

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# ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION

Submit to municipal clerk.

For the license period beginning Feb. 20 18 ;  
ending June 30 20 18

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

County of Outagamie Aldermanic Dist. No. 4 (if required by ordinance)

1. The named ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ LIMITED LIABILITY COMPANY  
☐ CORPORATION/NONPROFIT ORGANIZATION

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

2. Name (individual/partners give last name, first, middle; corporations/limited liability companies give registered name): Lou's Brew Cafe & Lounge Inc.

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

| Title                 | Name                  | Home Address          | Post Office & Zip Code     |
|-----------------------|-----------------------|-----------------------|----------------------------|
| President/Member      | <u>President</u>      | <u>Laura Loukidis</u> | <u>4769 INDIAN BEND RD</u> |
| Vice President/Member | <u>Vice Presiden</u>  | <u>Deno Loukidis</u>  |                            |
| Secretary/Member      |                       |                       |                            |
| Treasurer/Member      |                       |                       |                            |
| Agent                 | <u>Laura Loukidis</u> |                       |                            |
| Directors/Managers    |                       |                       |                            |

3. Trade Name Lou's Brew Cafe & Lounge Business Phone Number 920) 955-2229  
4. Address of Premises 233 E College Ave Post Office & Zip Code Appleton 54911

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

9. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) Basement, cafe east side (1st - 3rd floor) 1st floor Barside (West)

10. Legal description (omit if street address is given above):  
11. (a) Was this premises licensed for the sale of liquor or beer during the past license year? ☒ Yes ☐ No  
(b) If yes, under what name was license issued? Lou's Brew Cafe & Lounge  
12. Does the applicant understand they must file a Special Occupational Tax return (TTB form 5630.5d) before beginning business? [phone 1-800-937-8864] ☒ Yes ☐ No  
13. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] ☒ Yes ☐ No  
14. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? ☒ Yes ☐ No

**READ CAREFULLY BEFORE SIGNING:** Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signers. Signers agree to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants and each member of a partnership applicant must sign; corporate officer(s), members/managers of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

SUBSCRIBED AND SWORN TO BEFORE ME this 24 day of January 2018  
Cathy Bolwerk  
(Clerk/Notary Public)  
Notary Public, State of Wisconsin  
My commission expires January 23, 2021

Laura Loukidis  
(Officer of Corporation/Member/Manager of Limited Liability Company/Partner/Individual)  
[Signature]  
(Officer of Corporation/Member/Manager of Limited Liability Company/Partner)  
(Additional Partner(s)/Member/Manager of Limited Liability Company if Any)

## TO BE COMPLETED BY CLERK

|   |                                |                                 |                                   |
|---|--------------------------------|---------------------------------|-----------------------------------|
| Date received and filed with municipal clerk <u>1-24-18</u> | Date reported to council/board | Date provisional license issued | Signature of Clerk / Deputy Clerk |
| Date license granted  | Date license issued            | License number issued           |                                   |

# ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION

Submit to municipal clerk.

For the license period beginning \_\_\_\_\_ 20 \_\_\_\_\_  
ending 6-30 20 18

TO THE GOVERNING BODY of the: ☐ Town of Appleton  
☐ Village of Appleton  
☒ City of Appleton

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

1. The named ☒ INDIVIDUAL ☐ PARTNERSHIP ☒ LIMITED LIABILITY COMPANY  
☐ CORPORATION/NONPROFIT ORGANIZATION

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

2. Name (individual/partners give last name, first, middle; corporations/limited liability companies give registered name): Bruce A. Hawley THBJ Investments LLC

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

| Title                 | Name                   | Home Address           | Post Office & Zip Code                       |
|-----------------------|------------------------|------------------------|--|
| President/Member      | <u>Member</u>          | <u>Bruce A. Hawley</u> | <u>803 Howe Street Jr. Appleton WI 54912</u> |
| Vice President/Member |                        |                        |  |
| Secretary/Member      |                        |                        |  |
| Treasurer/Member      |                        |                        |  |
| Agent                 | <u>Bruce A. Hawley</u> |                        |  |
| Directors/Managers    |                        |                        |  |

3. Trade Name Mill Creek Tavern Business Phone Number 920-740-7005
4. Address of Premises 417 West College Ave Post Office & Zip Code Appleton 54912
5. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? ☐ Yes ☒ No
6. Is the applicant an employee or agent of, or acting on behalf of anyone except the named applicant? ☐ Yes ☒ No
7. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? ☐ Yes ☒ No
8. (a) Corporate/limited liability company applicants only: Insert state \_\_\_\_\_ and date \_\_\_\_\_ of registration.  
(b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? ☐ Yes ☒ No  
(c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? ☒ Yes ☐ No
- (NOTE: All applicants explain fully on reverse side of this form every YES answer in sections 5, 6, 7 and 8 above.)
9. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) 25 story building with alcohol service on 2nd floor
10. Legal description (omit if street address is given above): \_\_\_\_\_
11. (a) Was this premises licensed for the sale of liquor or beer during the past license year? ☒ Yes ☐ No  
(b) If yes, under what name was license issued? Mill Creek Tavern LLC
12. Does the applicant understand they must file a Special Occupational Tax return (TTB form 5630.5d) before beginning business? [phone 1-800-937-8864] ☒ Yes ☐ No
13. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776]. ☒ Yes ☐ No
14. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? ☒ Yes ☐ No

**READ CAREFULLY BEFORE SIGNING:** Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signers. Signers agree to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants and each member of a partnership applicant must sign; corporate officer(s), members/managers of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

## SUBSCRIBED AND SWORN TO BEFORE ME

this 31 day of January, 20 18  
Cathy Belver (Clerk/Notary Public, State of Wisconsin)  
My commission expires My Commission Expires January 23, 2021

Bruce A. Hawley (Member)  
(Officer of Corporation/Member/Manager of Limited Liability Company/Partner/Individual)  
Bruce A. Hawley (Officer of Corporation/Member/Manager of Limited Liability Company/Partner)  
(Additional Partner(s)/Member/Manager of Limited Liability Company if Any)

## TO BE COMPLETED BY CLERK

|   |                                |                                 |                                   |
|---|--------------------------------|---------------------------------|-----------------------------------|
| Date received and filed with municipal clerk <u>1-31-18</u> | Date reported to council/board | Date provisional license issued | Signature of Clerk / Deputy Clerk |
| Date license granted  | Date license issued            | License number issued           |                                   |

| Applicant's WI Seller's Permit No.: FEIN Number: <u>4526-103021064-02 / 82-3965733</u> |        |
|--|--------|
| LICENSE REQUESTED  |        |
| TYPE   | FEE    |
| <input type="checkbox"/> Class A beer  | \$     |
| <input checked="" type="checkbox"/> Class B beer                                       | \$     |
| <input type="checkbox"/> Class C wine  | \$     |
| <input type="checkbox"/> Class A liquor  | \$     |
| <input type="checkbox"/> Class A liquor (cider only)                                   | \$ N/A |
| <input checked="" type="checkbox"/> Class B liquor                                     | \$     |
| <input type="checkbox"/> Reserve Class B liquor  | \$     |
| <input type="checkbox"/> Class B (wine only) winery                                    | \$     |
| Publication fee  | \$     |
| <b>TOTAL FEE</b>   | \$     |



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

# **FEES ARE NON-REFUNDABLE**

Date Rec'd 2/8/18

License Fee - \$10.00 per event x 13

Acct. 11030.4322

Investigation Fee + 7.00

Acct. 100.2359

Total Amount Paid 137-

Receipt 4806821

## **Application for Special Class "B" License to Sell Fermented Malt Beverages at Picnics or Gatherings**

### **The named organization applies for:**

- ☒ A temporary Class "B" license to sell FERMENTED MALT BEVERAGES at picnics or similar gathering under s. 125.26(6) Wis. Stats.  
☒ A temporary Class "B" license to sell WINE at picnics or similar gathering under s. 125.51(10) Wis. Stats. (Limit 2 permits in a 12 month period)

### **SECTION 1 - ORGANIZATION INFORMATION - Answer all questions completely. Please PRINT clearly**

|  |  |                                    |   |  |                                    |                                 |                     |
|--|--|------------------------------------|---|--|------------------------------------|---------------------------------|---------------------|
| Name of Organization (Bona fide club, lodge or society, veteran's organization or fair association)<br><u>Appleton Downtown Inc.</u> |  |                                    |   |  |                                    | Date Organized<br><u>4.2.93</u> |                     |
| Address<br><u>116 N. Appleton St.</u>  |  |                                    | City<br><u>Appleton</u>   |  | State<br><u>WI</u>                 |                                 | Zip<br><u>54911</u> |
| Person in Charge of Event:   |  |                                    | Name: Last <u>Stephany</u> First <u>Jennifer</u> Middle Initial <u>L.</u> |  | Date of Birth<br><u>[REDACTED]</u> |                                 |                     |
| Address<br><u>70 ADE - 116 N. Appleton St.</u>   |  |                                    | City<br><u>Appleton</u>   |  | State<br><u>WI</u>                 |                                 | Zip<br><u>54911</u> |
| Person in charge phone number:<br><u>[REDACTED]</u>  |  |                                    |   |  |                                    |                                 |                     |
| President Last <u>Weider</u> First <u>Will</u> Middle Initial <u>R</u>   |  | Date of Birth<br><u>[REDACTED]</u> |   | Male <input checked="" type="checkbox"/> Female <input type="checkbox"/> |                                    |                                 |                     |
| Address<br><u>222 E. College Ave.</u>  |  |                                    | City<br><u>Appleton</u>   |  | State<br><u>WI</u>                 |                                 | Zip<br><u>54911</u> |
| Vice President Last <u>Johnson</u> First <u>Deb</u> Middle Initial <u>A</u>  |  | Date of Birth<br><u>[REDACTED]</u> |   | Male <input type="checkbox"/> Female <input checked="" type="checkbox"/> |                                    |                                 |                     |
| Address<br><u>300 W. College Ave.</u>  |  |                                    | City<br><u>Appleton</u>   |  | State<br><u>WI</u>                 |                                 | Zip<br><u>54911</u> |
| Secretary Last <u>Hagee</u> First <u>Lynn</u> Middle Initial <u>S</u>  |  | Date of Birth<br><u>[REDACTED]</u> |   | Male <input type="checkbox"/> Female <input checked="" type="checkbox"/> |                                    |                                 |                     |
| Address<br><u>711 E. Boldt Way</u>   |  |                                    | City<br><u>Appleton</u>   |  | State<br><u>WI</u>                 |                                 | Zip<br><u>54911</u> |
| Treasurer Last <u>Vargasko</u> First <u>Laura</u> Middle Initial <u>E</u>  |  | Date of Birth<br><u>[REDACTED]</u> |   | Male <input type="checkbox"/> Female <input checked="" type="checkbox"/> |                                    |                                 |                     |
| Address<br><u>200 E. Washington</u>  |  |                                    | City<br><u>Appleton</u>   |  | State<br><u>WI</u>                 |                                 | Zip<br><u>54911</u> |

### **SECTION 2 - EVENT INFORMATION SECTION**

Date(s) of Event: Beginning 6/7/18 Ending: 8/30/18 Hours 5:30 AM ☒ PM 9 AM ☒ PM

Please describe the type of event you are going to have:  
Summer Concert - free, open to general public.

Do you plan to serve food at this event? No ☐ Yes ☒ If yes, contact the Appleton Health Department. (920.832.6429)

Location where beer or wine will be sold:

Hondini Plaza

|  |  |   |  |                         |  |   |  |
|--|--|---|--|-------------------------|--|---|--|
| Address<br><u>Corner of College &amp; Appleton St.</u> |  | City<br><u>Appleton</u>   |  | State<br><u>WI</u>      |  | Zip<br><u>54911</u>   |  |
| Are you requesting an "open concept" license?          |  | No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> |  | Will minors be present? |  | No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> |  |

Describe actual location and dimensions of area to be licensed - Be precise!  
Full use of plaza (and barricaded area if necessary)

If yes, how will you prevent minors from obtaining alcoholic beverages?  
Whistband purchase required with ID and tickets. Licensed bartenders.

### **SECTION 3 - PENALTY SECTION**

This application must be on file in the Office of the City Clerk for at least ten (10) business days prior to granting the license.  
 If the event will last more than four (4) days, the application shall be filed 15 days prior to the granting of the license.  
 This organization also agrees to comply with all laws, resolutions, ordinances and regulations (state, federal or local) affecting the sale of fermented malt beverages if the license is granted. The officer(s) of the organization, individually and together, declare under penalties of law that the information provided in this application is true and correct to the best of their knowledge and belief.

Signature of Officer Jennifer Stephany

### **FOR OFFICE USE ONLY**

|            |         |             |           |                |
|------------|---------|-------------|-----------|----------------|
| Dept.      | Approve | Deny        | By        | Reason         |
| Police     |         |             |           |                |
| Fire       |         |             |           |                |
| Health     |         |             |           |                |
| Inspection |         |             |           |                |
| S&L        | Council | Date Issued | Exp. Date | License Number |

11-01-09

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

Return application to: City Clerk, 100 North Appleton Street, Appleton, WI 54911-4799



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

2018 Octoberfest

# **FEES ARE NON-REFUNDABLE**

Date Rec'd 2/8/18

License Fee - \$10.00 per event

Acct. 11030.4322

Investigation Fee + 7.00

Acct. 100.2359

Total Amount Paid 17

Receipt 4806214

## **Application for Special Class "B" License to Sell Fermented Malt Beverages at Picnics or Gatherings**

### **The named organization applies for:**

- ☒ A temporary Class "B" license to sell FERMENTED MALT BEVERAGES at picnics or similar gathering under s. 125.26(6) Wis. Stats.  
☒ A temporary Class "B" license to sell WINE at picnics or similar gathering under s. 125.51(10) Wis. Stats. (Limit 2 permits in a 12 month period)

### **SECTION 1 - ORGANIZATION INFORMATION - Answer all questions completely. Please PRINT clearly**

|   |          |            |                |                |                                |        |
|---|----------|------------|----------------|----------------|--------------------------------|--------|
| Name of Organization (Bona fide club, lodge or society, veteran's organization or fair association) |          |            |                | Date Organized |                                |        |
| Appleton Downtown Inc.  |          |            |                | 4.2.1993       |                                |        |
| Address   |          | City       | State          | Zip            |                                |        |
| 116 N. Appleton St.   |          | Appleton   | WI             | 54911          |                                |        |
| Person in Charge of Event:  |          | Name: Last | First          | Middle Initial | Date of Birth                  |        |
|   |          | Stephany   | Jennifer       | L              |                                |        |
| Address   |          | City       | State          | Zip            | Person in charge phone number: |        |
| 116 N. Appleton St.   |          | Appleton   | WI             | 54911          |                                |        |
| President   | Last     | First      | Middle Initial | Date of Birth  | Male                           | Female |
|   | Weider   | Will       | R              |                | X                              |        |
| Address   |          | City       | State          | Zip            |                                |        |
| 222 E. College Ave.   |          | Appleton   | WI             | 54911          |                                |        |
| Vice President  | Last     | First      | Middle Initial | Date of Birth  | Male                           | Female |
|   | Johnson  | Deb        | A              |                |                                | X      |
| Address   |          | City       | State          | Zip            |                                |        |
| 300 W. College Ave.   |          | Appleton   | WI             | 54911          |                                |        |
| Secretary   | Last     | First      | Middle Initial | Date of Birth  | Male                           | Female |
|   | Hagee    | Lynn       | S              |                |                                | X      |
| Address   |          | City       | State          | Zip            |                                |        |
| 711 E. Boldt Way.   |          | Appleton   | WI             | 54911          |                                |        |
| Treasurer   | Last     | First      | Middle Initial | Date of Birth  | Male                           | Female |
|   | Vargosko | Laura      | E              |                |                                | X      |
| Address   |          | City       | State          | Zip            |                                |        |
| 200 E Washington St.  |          | Appleton   | WI             | 54911          |                                |        |

### **SECTION 2 - EVENT INFORMATION SECTION**

Date(s) of Event: Beginning 9/29/18 Ending: 9/29/18 Hours 9 AM PM 5:30 AM PM

Please describe the type of event you are going to have:  
Free event featuring food, art, music, family activities, crafts & beer.

Do you plan to serve food at this event? ☒ No ☒ Yes If yes, contact the Appleton Health Department. (920.832.6429)

Location where beer or wine will be sold:  
College Avenue - Richmond Street to Lawe.

Address City State Zip

Are you requesting an "open concept" license? ☒ No ☒ Yes Will minors be present? ☒ No ☒ Yes

Describe actual location and dimensions of area to be licensed - Be precise!  
2017 map copy attached.

If yes, how will you prevent minors from obtaining alcoholic beverages?  
Wristband purchase required with I.D.

### **SECTION 3 - PENALTY SECTION**

This application must be on file in the Office of the City Clerk for at least ten (10) business days prior to granting the license.  
 If the event will last more than four (4) days, the application shall be filed 15 days prior to the granting of the license.  
 This organization also agrees to comply with all laws, resolutions, ordinances and regulations (state, federal or local) affecting the sale of fermented malt beverages if the license is granted. The officer(s) of the organization, individually and together, declare under penalties of law that the information provided in this application is true and correct to the best of their knowledge and belief.

Signature of Officer Jennifer Stephany

### **FOR OFFICE USE ONLY**

|            |         |             |           |                |
|------------|---------|-------------|-----------|----------------|
| Dept.      | Approve | Deny        | By        | Reason         |
| Police     |         |             |           |                |
| Fire       |         |             |           |                |
| Health     |         |             |           |                |
| Inspection |         |             |           |                |
| S&L        | Council | Date Issued | Exp. Date | License Number |

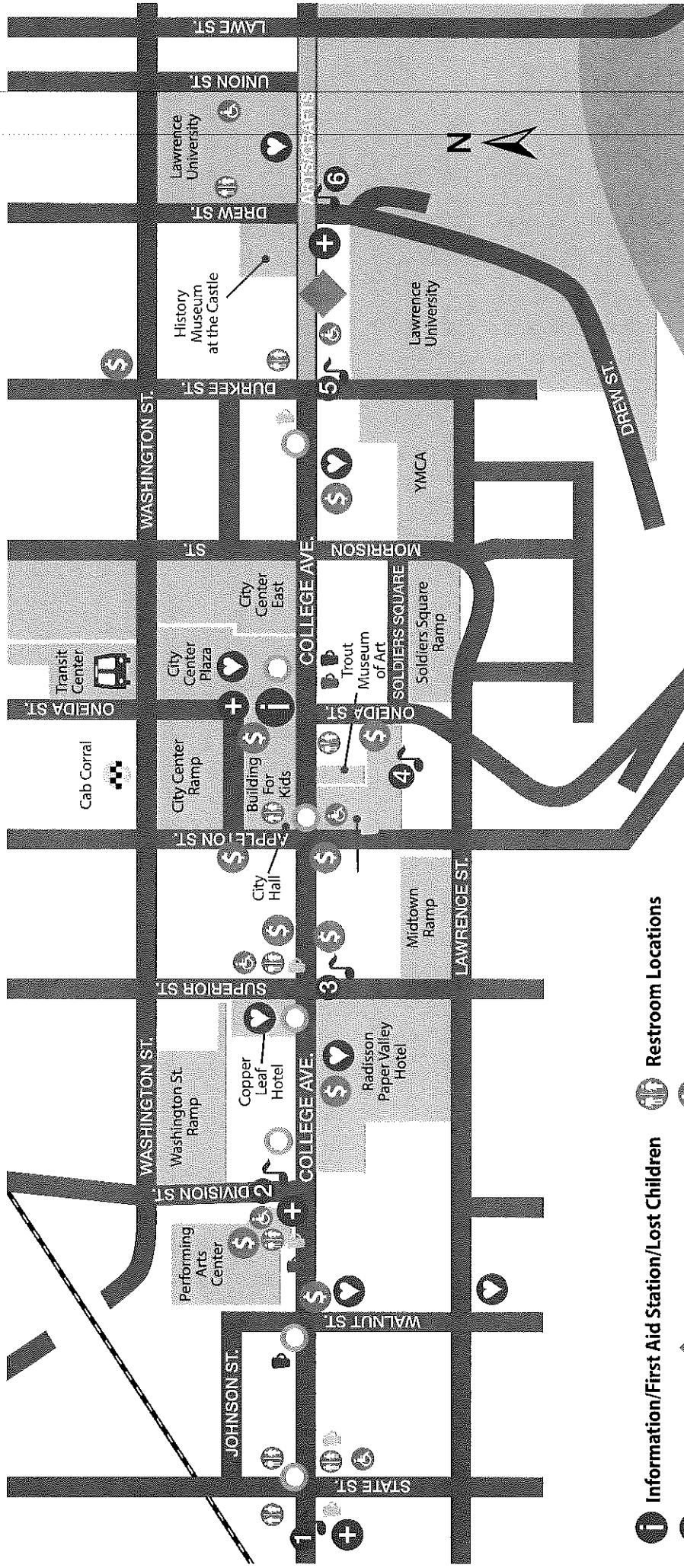
11-01-09

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

Return application to: City Clerk, 100 North Appleton Street, Appleton, WI 54911-4799

\$17-CK #16352





- Information/First Aid Station/Lost Children
- First Aid
- Defibrillators
- Beer Stands
- Entertainment Stages
- Family Fun Area
- ATMs
- Specialty Beer Stands
- Wristbands
- Restroom Locations
- Handicap Accessible Toilets
- Arts & Crafts Area
- Straw-Ber-Rita Stands
- Cab Corral



Operator's Licenses for 2/14/18 S & L

---

Approved

|                          |                                     |
|--------------------------|-------------------------------------|
| Doris R. Bierman         | 2315 S. Fountain Street             |
| Patrick T. Boettcher     | 2855 Glen Creek Pl, #4              |
| Samantha Erickson Stiner | 1719 N. Oneida Street               |
| Kaleigh C. George        | 1825 N. Harriman Street             |
| Joseph Hostettler-Bath   | 800 E. Park Hills Drive             |
| Rachel A. Janssen        | 1408 Vandenbroek Road, Little Chute |
| Melissa Naumann          | 1026 E. Northwood Drive             |
| Michelle M. Oettinger    | 534 W. Ann Street, Kaukauna         |
| Samanda S. Powell        | 600 S. Timmers Lane                 |
| Jena L. Scherer          | 1763 Paul Drive, Kaukauna           |
| Jason T. Sirianni        | 1423 Liberty Street, Green Bay      |
| Andrew R. Spakowicz      | N9667 Emerald Lane, Harrison        |
| Patria L. Vang           | 1025 Alva Street, Menasha           |
| Daniel Viedma Velasco    | 1417 W. Homestead Drive             |
| Nancy Vue                | 1335 W. Glendale Avenue             |

# ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION

Submit to municipal clerk.

For the license period beginning March 20 18 ;  
ending June 30 20 18

TO THE GOVERNING BODY of the: ☐ Town of ☐ Village of ☒ City of Appleton

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

1. The named ☐ INDIVIDUAL ☐ PARTNERSHIP ☒ LIMITED LIABILITY COMPANY  
☐ CORPORATION/NONPROFIT ORGANIZATION

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

2. Name (individual/partners give last name, first, middle; corporations/limited liability companies give registered name): Player 2 LLC

| Applicant's WI Seller's Permit No.: <u>456402982806502</u> FEIN Number: <u>82-3925121</u> |                  |
|---|------------------|
| LICENSE REQUESTED   |                  |
| TYPE  | FEE              |
| <input type="checkbox"/> Class A beer   | \$               |
| <input checked="" type="checkbox"/> Class B beer  | \$ <u>100</u>    |
| <input type="checkbox"/> Class C wine   | \$               |
| <input type="checkbox"/> Class A liquor   | \$               |
| <input type="checkbox"/> Class A liquor (cider only)                                      | \$ N/A           |
| <input checked="" type="checkbox"/> Class B liquor <u>x4mtbs</u>                          | \$ <u>200</u>    |
| <input checked="" type="checkbox"/> Reserve Class B liquor                                | \$ <u>10,000</u> |
| <input type="checkbox"/> Class B (wine only) winery                                       | \$               |
| Publication fee   | \$ <u>60</u>     |
| <b>TOTAL FEE</b>  | \$ <u>10,360</u> |

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

|                       | Title                | Name                   | Home Address            | Post Office & Zip Code      |
|-----------------------|----------------------|------------------------|-------------------------|-----------------------------|
| President/Member      | <u>Owner/officer</u> | <u>Marissa Emerson</u> | <u>2930 Overlook Dr</u> | <u>Bloomington MN 55431</u> |
| Vice President/Member | <u>Owner/officer</u> | <u>Michael Joyce</u>   | <u>2930 Overlook Dr</u> | <u>Bloomington MN 55431</u> |
| Secretary/Member      |                      |                        |                         |                             |
| Treasurer/Member      |                      |                        |                         |                             |
| Agent                 | <u>Bob Sager</u>     |                        | <u>1333 Cedar St.</u>   | <u>New London WI 54901</u>  |
| Directors/Managers    |                      |                        |                         |                             |

3. Trade Name Player 2 Arcade Bar Business Phone Number 612-306-3449
4. Address of Premises 215 E College Ave Post Office & Zip Code 54911
5. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? ☒ Yes ☐ No
6. Is the applicant an employee or agent of, or acting on behalf of anyone except the named applicant? ☐ Yes ☒ No
7. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? ☐ Yes ☒ No
8. (a) **Corporate/limited liability company applicants only:** Insert state \_\_\_\_\_ and date \_\_\_\_\_ of registration.  
(b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? ☐ Yes ☒ No  
(c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? ☐ Yes ☒ No  
(NOTE: All applicants explain fully on reverse side of this form every YES answer in sections 5, 6, 7 and 8 above.)
9. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) 3200 ft<sup>2</sup> - Frontroom, back room - Main level - Storage in basement
10. Legal description (omit if street address is given above): \_\_\_\_\_
11. (a) Was this premises licensed for the sale of liquor or beer during the past license year? ☐ Yes ☒ No  
(b) If yes, under what name was license issued? \_\_\_\_\_
12. Does the applicant understand they must file a Special Occupational Tax return (TTB form 5630.5d) before beginning business? [phone 1-800-937-8864] ☒ Yes ☐ No
13. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] ☒ Yes ☐ No
14. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? ☒ Yes ☐ No

**READ CAREFULLY BEFORE SIGNING:** Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signers. Signers agree to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants and each member of a partnership applicant must sign; corporate officers, partners/managers of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

## SUBSCRIBED AND SWORN TO BEFORE ME

this 29 day of January, 20 18

Carolyn M. Helgeson  
(Clerk/Notary Public)

My commission expires 01-31-2021

Marissa Emerson  
(Officer of Corporation/Member/Manager of Limited Liability Company/Partner/Individual)

Michael Joyce  
(Officer of Corporation/Member/Manager of Limited Liability Company/Partner)

\_\_\_\_\_  
(Additional Partner(s)/Member/Manager of Limited Liability Company if Any)

## TO BE COMPLETED BY CLERK

|   |                                |                                 |                                   |
|---|--------------------------------|---------------------------------|-----------------------------------|
| Date received and filed with municipal clerk <u>1-30-18</u> | Date reported to council/board | Date provisional license issued | Signature of Clerk / Deputy Clerk |
| Date license granted  | Date license issued            | License number issued           |                                   |



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** February 13, 2018

**Common Council Meeting Date – PC Report:** February 21, 2018

**Finance Committee Meeting Date – Resolution:** February 26, 2018

**Common Council Meeting Date – Resolution:** March 7, 2018

**Common Council Meeting Date – Ordinance:** March 21, 2018

**Item:** 1712 E. Edgewood Drive Annexation

**Case Manager:** Don Harp

### **GENERAL INFORMATION**

---

**Owner/Applicant:** Applewood Properties, LLC / Ronald Viaene

**Address/Parcel:** 1712 E. Edgewood Drive (Town of Grand Chute Tax Id. 101006406)

**Petitioner's Request:** Owner/Electors are requesting direct annexation by unanimous approval pursuant to Section 66.0217(2), Wisconsin State Statutes of land currently located in the Town of Grand Chute, Outagamie County.

**Purpose for Annexation:** To allow the existing single-family residence to be connected to the City water system.

**Population of Such Territory:** 2

**Annexation Area:** 0.83 acres m/l

### **BACKGROUND**

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On March 16, 1992, the City of Appleton and the Town of Grand Chute agreed to and entered into an Intermunicipal Boundary Agreement pursuant to Section 66.027 and 66.30 of the Wisconsin State Statutes for the purpose of defining and expanding the provision of governmental services including water and sewer services by establishing the City's growth area and establishing provisions for annexation of land within the Town of Grand Chute to the City of Appleton.

### **STAFF ANALYSIS**

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The Community and Economic Development Department staff has reviewed the annexation petition and identifies the following:

**STAFF ANALYSIS (continued)**

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- Annexation of the site in question is consistent with the Intermunicipal Boundary Agreement with the Town of Grand Chute.
- City water infrastructure to serve the subject property is already installed along East Edgewood Drive. Annexation to the City of Appleton would be required before the subject property could connect to the City water.
- Sanitary sewer service is provided to the subject property by the Town of Grand Chute.
- Currently, there is an existing single-family residence located on the subject property.
- The owner/electors are requesting the City Plan Commission initiate a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District.
- The temporary zoning classification must be made permanent in accordance with Section 23-65(d), Zoning Map Amendments, within 90 days, or the zoning will revert to AG Agricultural District.

**Surrounding Zoning Classification and Current Land Uses (Town of Grand Chute):**

**North:** Zoning: RSF, Single-Family Residential District  
Current Land Use – Outdoor Storage

**South:** Zoning: RSF, Single-Family Residential District  
Current Land Use – Residential

**East:** Zoning: RSF, Single-Family Residential District  
Current Land Use – Residential

**West:** Zoning: RSF, Single-Family Residential District  
Current Land Use – Residential

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton 2010-2030 Comprehensive Plan Map identifies this parcel for future Single-Family/Two-Family residential land uses. The proposed R-1B Single-Family District zoning classification is consistent with the *Comprehensive Plan 2010-2030* Future Land Use Map.

**Appleton Comprehensive Plan 2010-2030 (continued): Overall Community Goals:**

***Goal 1 – Community Growth (Chapter 10)***

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

***Goal 3 – Housing Quality, Variety, and Affordability (Chapter 5)***

*Appleton will provide a variety of rental and ownership housing choices in a range of prices affordable to community residents, and ensure that existing housing is adequately maintained in terms of physical quality and market viability.*

*5.1 OBJECTIVE: Continue efforts to ensure an adequate supply of housing affordable to all income levels in the community.*

*5.3 OBJECTIVE: Provide a range of housing options that meet the needs and appeal to all segments of the community and allows residents to age in place.*

***OBJECTIVE 10.1 Land Use:***

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

**Technical Review Group (TRG) Report:** This item was discussed at the January 23, 2018 Technical Review Group meeting. No negative comments were received from participating departments.

**FUTURE ACTIONS**

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All territory annexed to the City is assigned a zoning classification as recommended by Plan Commission. Plan Commission considers criteria per Section 23-65(d), Zoning Map Amendments: 1. Existing land uses within the territory, 2. Land uses that exist on adjacent properties and 3. The Comprehensive Plan.

The owner/electors are requesting the Plan Commission initiate a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District.

With this in mind, permanent R-1B Single-Family zoning classification will be initiated by the Plan Commission and will be reviewed and approved by the Common Council.

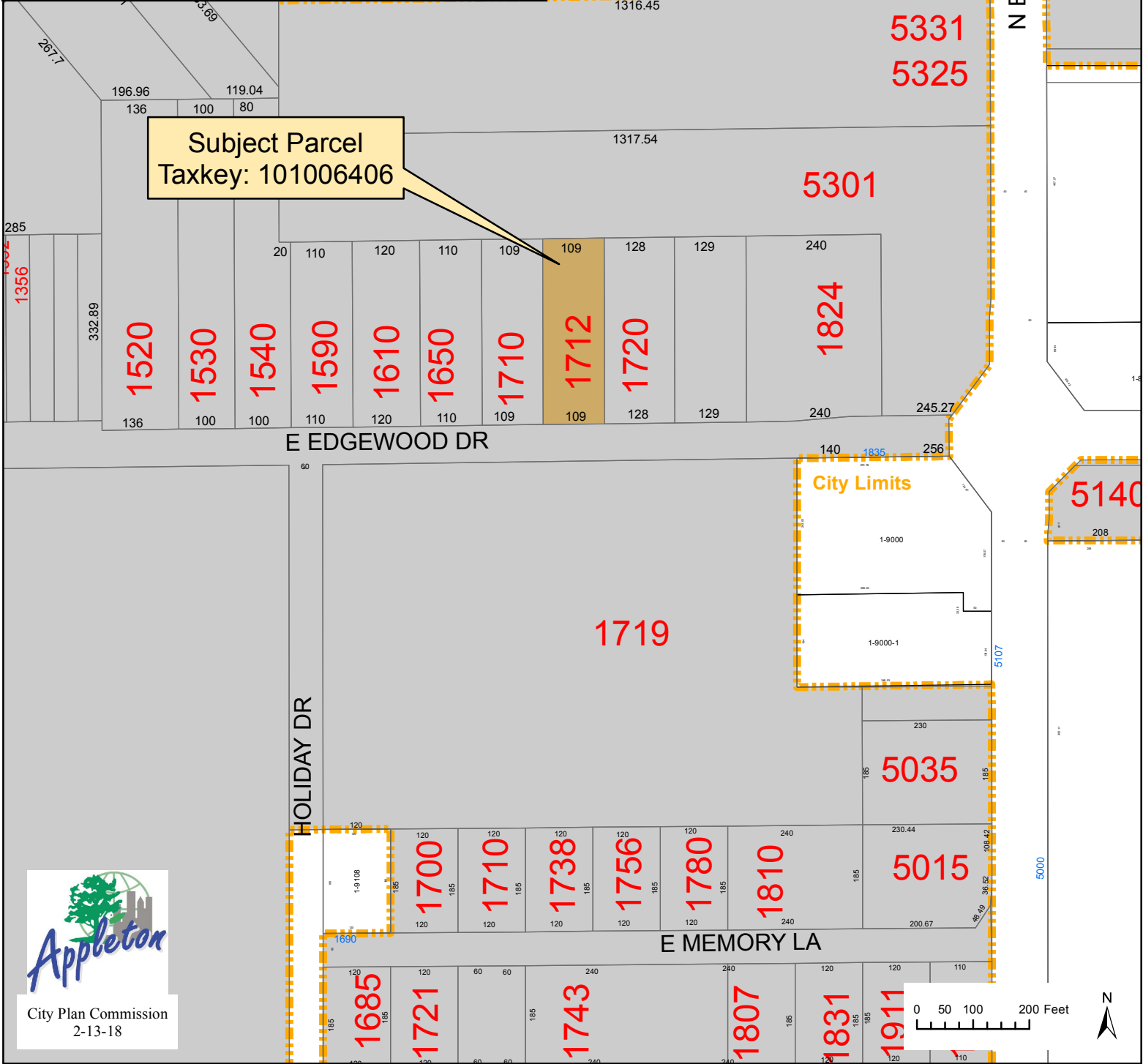
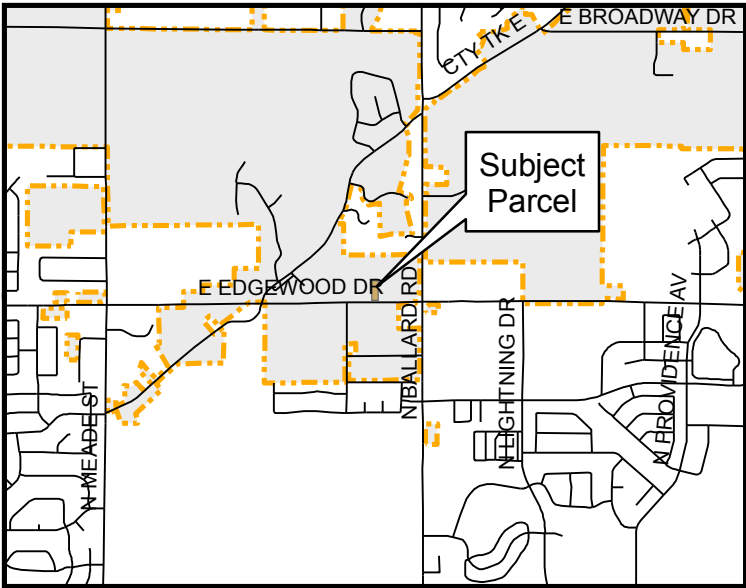
**RECOMMENDATION**

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Staff recommends that the 1712 E. Edgewood Drive Annexation, as shown on the attached maps, **BE APPROVED** with the following stipulation:

1. The Plan Commission initiating the rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District pursuant to Section 23-65(d)(1) of the Zoning Ordinance.

1712 E. Edgewood Dr.  
Annexation





1712 E. Edgewood Dr.  
Annexation

City Limits

Subject Parcel  
Taxkey: 101006406

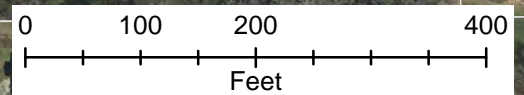
E EDGEWOOD DR

HOLIDAY DR

City Limits



City Plan Commission  
2-13-18







**PETITION FOR DIRECT ANNEXATION BY UNANIMOUS APPROVAL  
PURSUANT TO SECTION 66.0217(2), WISCONSIN STATUTES**

I/We, the undersigned, constituting all of the sole owner of the real property and all of the electors that reside in the following territory of the Town of Grand Chute, Outagamie County, Wisconsin, petition the Common Council of the City of Appleton to annex the territory described below and shown on the attached scale map to the City of Appleton, Outagamie County, Wisconsin.

The East 109 feet of the West 578 feet of the South 11 acres of the Southeast ¼ of the Southeast ¼ of Section 1, Township 21 North, Range 17 East, Town of Grand Chute, Outagamie County, Wisconsin, less and excepting premises conveyed and/or used for highway purposes.

Intending to annex to the City of Appleton all those lands of the owner contained within Warranty Deed Document Number 2076853.


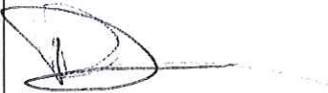
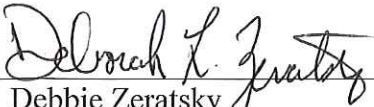
The current population of such territory is 2. The number of electors that reside on the lands to be annexed is 2.

I/We, the undersigned, elect that this annexation shall take effect to the full extent consistent with outstanding priorities of other annexation, incorporation, or consolidation proceedings, if any.

I/We further respectfully request that the City Plan Commission initiate a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District.

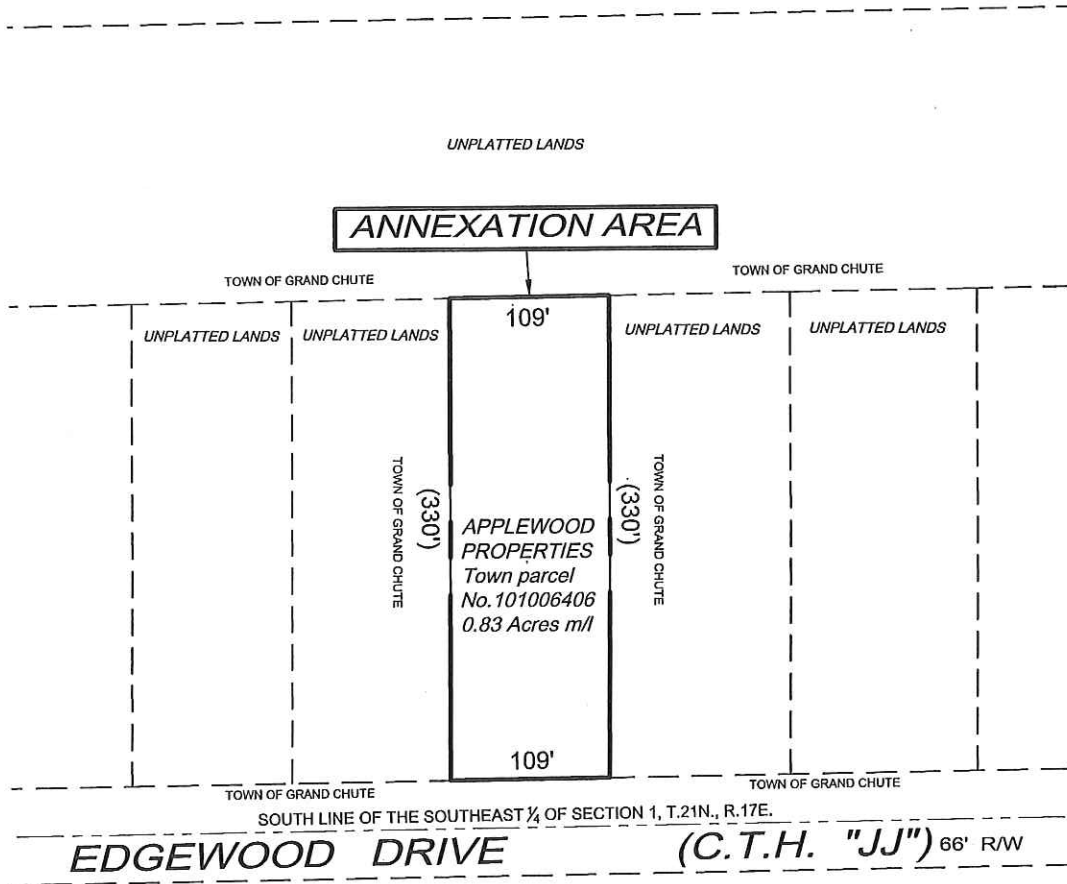
Area of lands to be annexed contains 0.83 acres m/l.

Tax Parcel number of lands to be annexed: 101006406

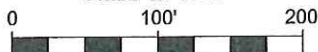
| Signature of Petitioner   | Owner/Elector                          | Date of Signing | Address of Petitioner (Include Zip Code)     |
|---|--|-----------------|--|
|  | Owner,<br>Applewood<br>Properties, LLC | 1-11-18         | N1254 River Drive<br>Greenville, WI 54942    |
| Ronald Viaene   |  |                 |  |
|  | Elector                                | 1-11-18         | 1712 E. Edgewood Drive<br>Appleton, WI 54913 |
| Dan Zeratsky  |  |                 |  |
|  | Elector                                | 1-11-18         | 1712 E. Edgewood Drive<br>Appleton, WI 54913 |
| Debbie Zeratsky   |  |                 |  |

# ANNEXATION EXHIBIT

The East 109 feet of the West 578 feet of the South 11 Acres of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 1, Township 21 North, Range 17 East, Town of Grand Chute, Outagamie County, Wisconsin, less and excepting premises conveyed and/or used for highway purposes.



SCALE IN FEET



BEARINGS ARE REFERENCED TO THE WISCONSIN COUNTY COORDINATE SYSTEM, OUTAGAMIE COUNTY, SOUTH LINE OF SE  $\frac{1}{4}$  SECTION 1, T.21N., R.17E.; recorded to bear N89°14'49"E  
H:\Acad\Annex\2018\Applewood\_1712E\_Edgewood Drive\_0108\_2018

## CITY OF APPLETON

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



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** February 13, 2018

**Common Council Meeting Date – PC Report:** February 21, 2018

**Finance Committee Meeting Date – Resolution:** February 26, 2018

**Common Council Meeting Date – Resolution:** March 7, 2018

**Common Council Meeting Date – Ordinance:** March 21, 2018

**Item:** North Edgewood Estates Annexation

**Case Manager:** David Kress

### **GENERAL INFORMATION**

---

**Owner:** Wisconsin Electric Power Company c/o James Raabe

**Applicant:** North Edgewood Estates Development, LLC c/o Kurt Coenen

**Address/Parcel:** Part of Town of Grand Chute Tax Id #101153600. The subject property is located east of North French Road, between East Edgewood Drive and East Broadway Drive.

**Petitioner's Request:** Owner is requesting direct annexation by unanimous approval pursuant to Section 66.0217(2), Wisconsin State Statutes of land currently located in the Town of Grand Chute, Outagamie County.

**Purpose for Annexation:** To allow for the future development of a subdivision, with approximately 129 single-family lots anticipated.

**Population of Such Territory:** 0

**Annexation Area:** 72.263 acres m/l

### **BACKGROUND**

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On March 16, 1992, the City of Appleton and the Town of Grand Chute agreed to and entered into an Intermunicipal Boundary Agreement pursuant to Section 66.027 and 66.30 of the Wisconsin State Statutes for the purpose of defining and expanding the provision of governmental services, including water and sewer services, by establishing the City's growth area and establishing provisions for annexation of land within the Town of Grand Chute to the City of Appleton.

On January 17, 2018, Common Council approved the North Edgewood Estates Development Agreement to set forth the City and developer duties and responsibilities with respect to development of the subject

**North Edgewood Estates Annexation**  
**February 13, 2018**  
**Page 2**

land. The Development Agreement is contingent upon the property being annexed to the City of Appleton.

A Certified Survey Map (CSM) was recently approved by the Town of Grand Chute for the subject area. The CSM, which creates two lots and dedicates public right-of-way within the subject area, is expected to be recorded before the annexation becomes effective. Upon annexation, City data will reflect the applicable information found in the CSM.

**STAFF ANALYSIS**

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The Community and Economic Development Department staff has reviewed the annexation petition and identifies the following:

- The area proposed for annexation is contiguous to the existing City boundary. The subject property connects to the City of Appleton at North French Road and adjacent properties located along East Paris Way.
- Annexation of the site in question is consistent with the Intermunicipal Boundary Agreement with the Town of Grand Chute.
- City sanitary sewer and water infrastructure is already installed along North French Road. The improvements needed to connect to City utilities are identified and described in the recently-approved North Edgewood Estates Development Agreement. Annexation to the City of Appleton is required before the subject property could connect to the City sewer and water.
- Currently, the subject property consists of vacant, undeveloped land.
- The owner is requesting that the City Plan Commission initiate a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District. The temporary zoning classification must be made permanent in accordance with Section 23-65(d), Zoning Map Amendments, within 90 days, or the zoning will revert to AG Agricultural District.

**Surrounding Zoning Classification and Land Uses:**

North: Town of Grand Chute. The adjacent land uses to the north are currently agricultural.

South: R-3 Multi-Family District, P-I Public Institutional District, and Town of Grand Chute. The adjacent land uses to the south are currently a mix of multi-family residential and agricultural uses.

East: Town of Vandenbroek. The adjacent land uses to the east are currently agricultural.

**North Edgewood Estates Annexation**  
**February 13, 2018**  
**Page 3**

West: R-1B Single-Family District, P-I Public Institutional District, and Town of Grand Chute. The adjacent land uses to the west are currently a mix of single-family residential and institutional uses, including an existing utility substation.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* identifies this area for future One and Two-Family Residential and Public/Institutional uses. The proposed R-1B Single-Family District zoning classification is consistent with the *Comprehensive Plan 2010-2030* Future Land Use Map. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

*Goal 1 – Community Growth*

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

*Goal 3 – Housing Quality, Variety, and Affordability*

*Appleton will provide a variety of rental and ownership housing choices in a range of prices affordable to community residents, and ensure that existing housing is adequately maintained in terms of physical quality and market viability.*

**OBJECTIVE 5.3 Housing and Neighborhoods:**

*Provide a range of housing options that meet the needs and appeal to all segments of the community and allows residents to age in place.*

*Policy 5.3.3 Plan for a supply of developable land suitable for residential development.*

**OBJECTIVE 10.1 Land Use:**

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

**OBJECTIVE 10.4 Land Use:**

*Plan for compact, efficient, and fiscally responsible growth of residential, commercial, and industrial development in new neighborhoods in order to implement the principles of smart growth.*

*Policy 10.4.1 Continue to guide residential growth to locations either contiguous to or within presently urbanized areas. As peripheral development occurs, it should be at a compact, urban density to ensure new neighborhoods can be efficiently served by public infrastructure.*

**Technical Review Group (TRG) Report:** This item was discussed at the January 23, 2018 Technical Review Group meeting. No negative comments were received from participating departments.

**FUTURE ACTIONS**

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Per Section 23-65(e) of the Municipal Code, a temporary zoning classification is assigned to newly annexed territory, with permanent zoning taking place following the annexation process. All territory annexed to the City is assigned a zoning classification as recommended by Plan Commission. The Plan

**North Edgewood Estates Annexation**  
**February 13, 2018**  
**Page 4**

Commission shall consider the following criteria in selection of an appropriate zoning district for the annexed land:

- The existing land uses within the territory to be annexed;
- The surrounding land uses that exist on adjacent properties regardless of municipal boundary lines;
- The comprehensive plan of the City.

The owner is requesting that Plan Commission initiate a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District. A rezoning initiated directly by Plan Commission will be processed in accordance with Section 23-65(d), Zoning Map Amendments, which includes review and action by the Common Council.

Review and approval of a Preliminary Plat and Final Plat will be needed to subdivide the property, as proposed in the North Edgewood Estates Development Agreement. Each of these items requires action by Plan Commission and Common Council.

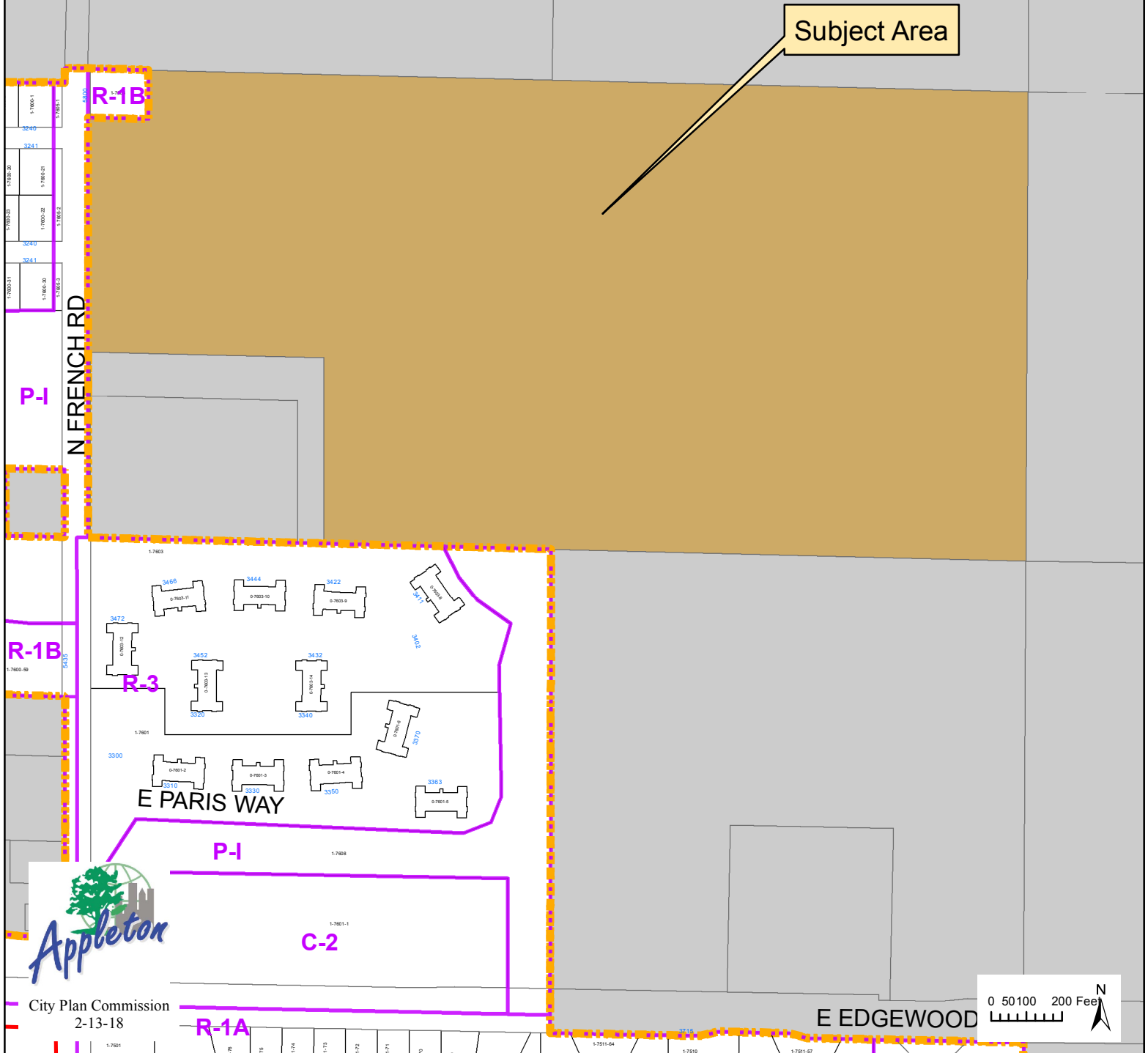
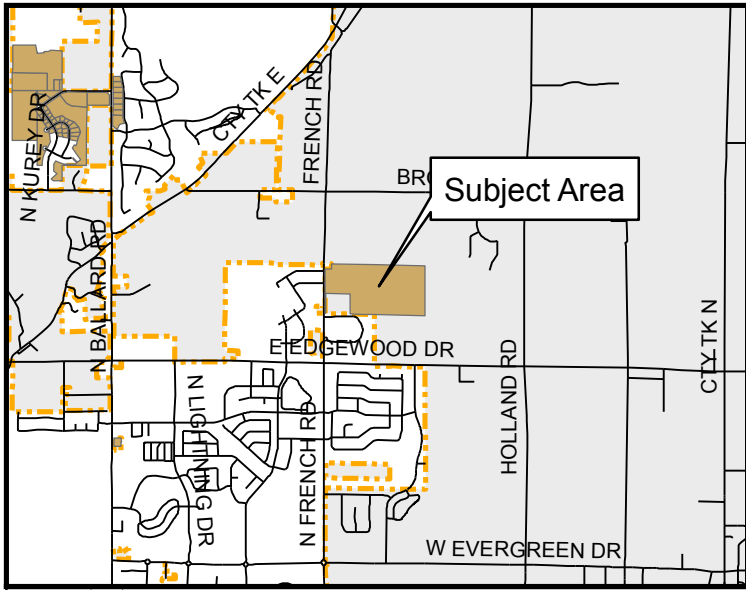
**RECOMMENDATION**

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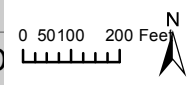
Staff recommends that the North Edgewood Estates Annexation, as shown on the attached maps, **BE APPROVED** with the following stipulation:

1. The Plan Commission initiate the rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District, pursuant to Section 23-65(d)(1) of the Municipal Code.

Annexation  
North Edgewood Estates  
Town of Grand Chute  
Zoning Map



City Plan Commission  
2-13-18





Annexation  
North Edgewood Estates  
Town of Grand Chute  
Aerial Map

Subject Area

City Limits

N FRENCH RD

E PARIS WAY

City Limits

E EDGEWOOD DR



City Plan Commission  
2-13-18

0 100 200  
Feet







**PETITION FOR DIRECT ANNEXATION BY UNANIMOUS APPROVAL  
PURSUANT TO SECTION 66.0217(2), WISCONSIN STATUTES  
WHERE NO ELECTORS RESIDE IN TERRITORY**

We, the undersigned, constituting all of the owners of the real property in which no electors reside in the following territory of the Town of Grand Chute, Outagamie County, Wisconsin, lying contiguous to the City of Appleton, petition the Common Council of the City of Appleton to annex the territory described below and shown on the attached scale map to the City of Appleton, Outagamie County, Wisconsin.

Part of Lot One (1) and part of Lot Two (2) of CERTIFIED SURVEY MAP NUMBER 4228 filed in Volume 23 of Certified Survey Maps on Page 4228 as Document Number 1448301 in the Outagamie County Register of Deeds Office, located in the North One-Half (N ½) of the Southwest Quarter (SW ¼) of Section 5, Township 21 North, Range 18 East, Town of Grand Chute, Outagamie County, Wisconsin, containing 72.263 Acres of land m/l and being described by:

Commencing at the Southwest corner of said Section 5;

Thence North 00° 02' 25" West 1325.97 feet along the West line of the SW ¼ of said Section 5 to the South line of Certified Survey Map No. 4228;

Thence South 88° 34' 21" East 33.01 feet coincident to the South line of said Certified Survey Map No. 4228 to the Point of Beginning;

Thence North 00° 02' 25" West 1185.99 feet to a North line of said Certified Survey Map No. 4228;

Thence South 88° 35' 21" East 171.05 feet coincident to a North line of said Certified Survey Map No. 4228;

Thence North 00° 02' 25" West 140.00 feet coincident to a West line of said Certified Survey Map No. 4228;

Thence South 88° 35' 21" East 2486.15 feet coincident to the North line of said Certified Survey Map No. 4228 to the East line of said Certified Survey Map No. 4228;

Thence South 00° 16' 55" West 1326.58 feet coincident to the East line of said Certified Survey Map No. 4228 to the South line of said Certified Survey Map No. 4228;

Thence North 88° 34' 21" West 1982.54 feet coincident to the South line of said Certified Survey Map No. 4228;

Thence North 00° 02' 25" West 525.18 feet;

Thence North 88° 34' 11" West 660.22 feet to a point 40.00 feet East of, as measured at a right angle to, the West line of the Southwest ¼ of said Section 5;

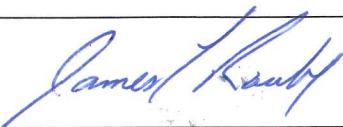
Thence South 00° 02' 25" East 525.21 feet to the South line of said Certified Survey Map No. 4228;

Thence North 88° 34' 21" West 7.00 feet coincident to the South line of said Certified Survey Map No. 4228 to the point of beginning.

The current population of such territory is 0.

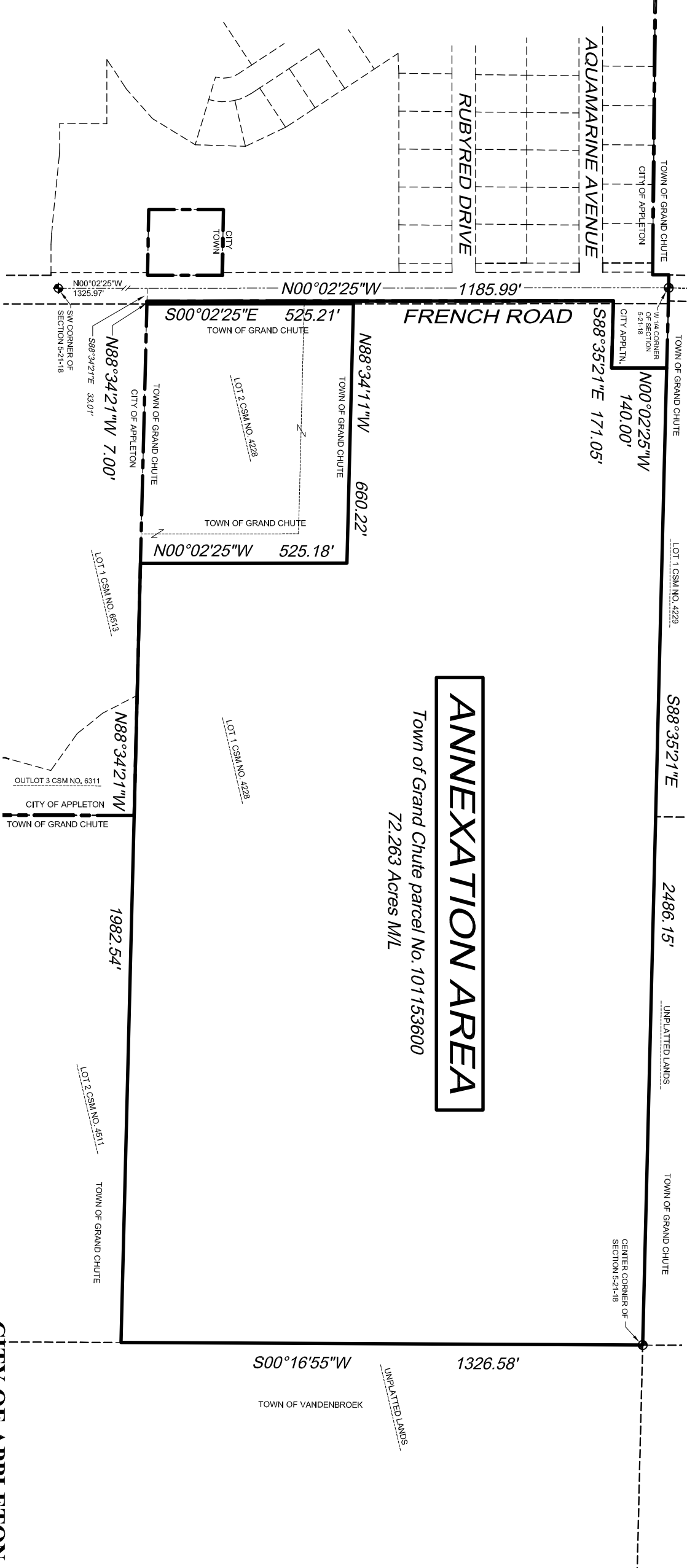
We, the undersigned, elect that this annexation shall take effect to the full extent consistent with outstanding priorities of other annexation, incorporation, or consolidation proceedings, if any.

We further respectfully request that the City Plan Commission initiate a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District.

| Signature of Petitioner   | Owner                                  | Date of Signing | Address of Petitioner (Include Zip Code) |
|---|--|-----------------|--|
|          | Wisconsin<br>Electric Power<br>Company | 1/22/18         | P.O. Box 2046<br>Milwaukee, WI 53201     |
| James T. Raabe, Manager of<br>Property Management,<br>Wisconsin Electric Power<br>Company |  |                 |  |

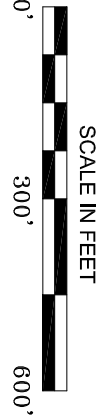
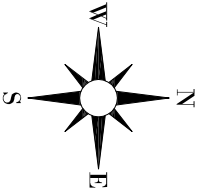
# ANNEXATION EXHIBIT

Part of Lot One (1) and part of Lot Two (2) of **CERTIFIED SURVEY MAP NUMBER 4228** filed in Volume 23 of Certified Survey Maps on Page 4228 as Document Number 1448301 in the Outagamie County Register of Deeds Office, located in the North One-Half (N ½) of the Southwest Quarter (SW ¼) of Section 5, Township 21 North, Range 18 East, Town of Grand Chute, Outagamie County, Wisconsin.



## ANNEXATION AREA

*Town of Grand Chute parcel No. 101153600*  
*72.263 Acres M/L*



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



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** February 13, 2018

**Common Council Meeting Date – PC Report:** February 21, 2018

**Finance Committee Meeting Date – Resolution:** February 26, 2018

**Common Council Meeting Date – Resolution:** March 7, 2018

**Common Council Meeting Date – Ordinance:** March 21, 2018

**Item:** Leona Pond Annexation

### GENERAL INFORMATION

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**Owner/Applicant:** City of Appleton

**Address/Parcel:** Portion of 2136 E. Wisconsin Avenue (Town of Grand Chute Tax Id #102009900)

**Petitioner's Request:** Owner/applicant is requesting direct annexation by unanimous approval pursuant to Section 66.0217(2), Wisconsin State Statutes of land currently located in the Town of Grand Chute, Outagamie County.

**Purpose for Annexation:** The City has plans to construct a stormwater management facility on this parcel.

**Population of Such Territory:** 0

**Annexation Area:** 11.3366 acres m/l

### BACKGROUND

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On March 16, 1992, the City of Appleton and the Town of Grand Chute agreed to and entered into an Intermunicipal Boundary Agreement pursuant to Section 66.027 and 66.30 of the Wisconsin State Statutes for the purpose of defining and expanding the provision of governmental services including water and sewer services by establishing the City's growth area and establishing provisions for annexation of land within the Town of Grand Chute to the City of Appleton.

### STAFF ANALYSIS

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The Community and Economic Development Department staff has reviewed the annexation petition and identifies the following:

- The area proposed for annexation is contiguous to the existing City boundary.
- Annexation of the site in question is consistent with the Boundary Agreement with the Town of Grand Chute.

- Sanitary sewer and water infrastructure exists in Richard Street and Leona Street. The petitioner's interest in annexing is to construct a stormwater management facility.
- The property is currently undeveloped.
- The owner is requesting the City Plan Commission initiate a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of P-I Public Institutional District.
- The temporary zoning classification must be made permanent in accordance with Section 23-65(d), Zoning Map Amendments, within 90 days, or the zoning will revert to AG Agricultural District.
- The *Comprehensive Plan 2010-2030* Future Land Use Map indicates future Business/Industrial for the majority of the land with a small area for One and Two Family Residential uses in this area. The proposed use of this land will be for a future, City owned, stormwater management pond and Staff would recommend the Plan Commission initiate the process to change the future land use designation to Public Institutional for this land. This would make the proposed zoning of P-I Public Institutional consistent with the Comprehensive Plan pursuant to the zoning map amendment standard listed in Section 23-65(d)(3)a.1.

#### **Surrounding Zoning Classification and Land Uses:**

North: M-2 General Industrial District. The adjacent land uses to the north are currently industrial.

South: Town of Grand Chute. The adjacent land use to the south are currently undeveloped and single-family residential.

East: Town of Grand Chute. The adjacent land uses to the east are currently undeveloped.

West: R-1A Single-Family District and R-2 Two-Family District. The adjacent land uses to the west are single-family residential.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* identifies the majority of this area for future Business/Industrial uses with a small area for One and Two Family Residential uses. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

#### *Goal 5 – Utilities and Community Services*

*Appleton will provide excellent public utility and community services at a reasonable cost, and will work with private utility companies to ensure quality service delivery.*

**OBJECTIVE 7.5:** *Implement effective stormwater management practices.*

**Policy 7.5.1** *Continue to implement the City's Surface Water Management Plan and its WPDES Municipal Separate Storm Sewer System (MS-4) permit from the Wisconsin Department of Natural Resources.*

**Technical Review Group (TRG) Report:** This item was discussed at the January 23, 2018 Technical Review Group meeting. No negative comments were received from participating departments.

## **FUTURE ACTIONS**

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All territory annexed to the City is assigned a zoning classification as recommended by Plan Commission. Plan Commission considers criteria per Section 23-65(d), Zoning Map Amendments: 1. Existing land uses within the territory, 2. Land uses that exist on adjacent properties and 3. The Comprehensive Plan.

The owner is requesting the Plan Commission initiate a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of P-I Public Institutional District.

The owner is requesting the Plan Commission initiate a Future Land Use map amendment for the subject property, from Business/Industrial and One and Two Family Residential to Public Institutional.

With this in mind, permanent P-I Public Institutional zoning classification and the Future Land Use Map amendment will be initiated by the Plan Commission and will be reviewed and approved by the Common Council.

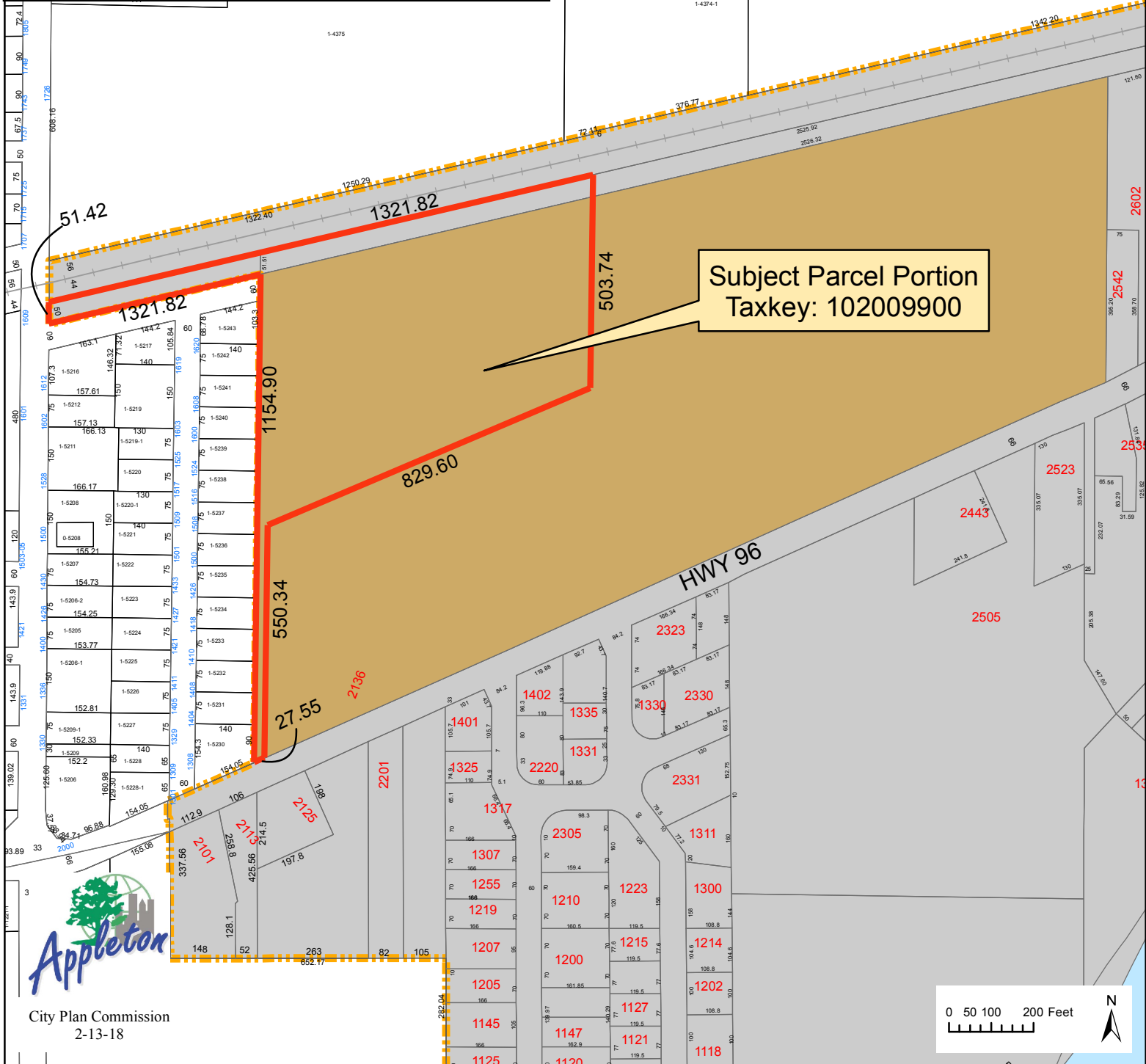
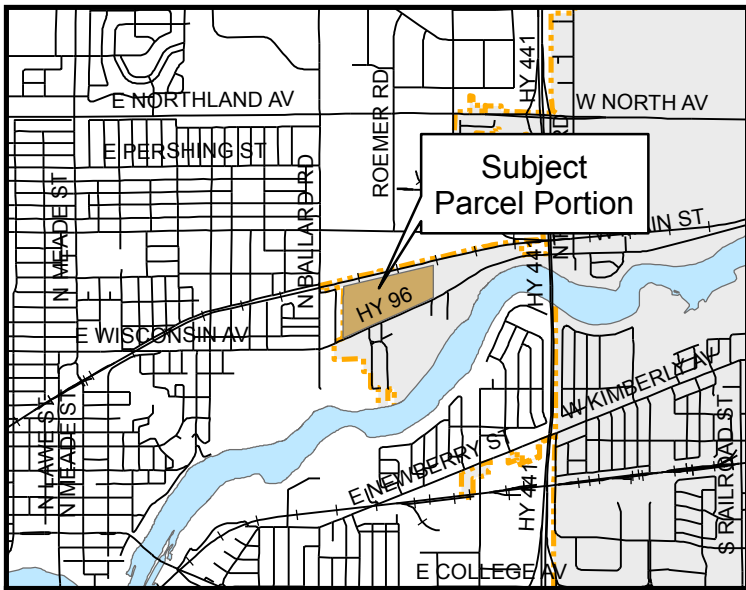
## **RECOMMENDATION**

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Staff recommends that the Leona Pond Annexation (portion of 2136 E. Wisconsin Avenue), as shown on the attached maps, **BE APPROVED** with the following stipulations:

1. The Plan Commission initiating the rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of P-I Public Institutional District pursuant to Section 23-65(d)(1) of the Zoning Ordinance.
2. The Plan Commission initiating a Future Land Use Map amendment for the subject property, from Business/Industrial and One and Two Family Residential to Public Institutional pursuant to Chapter 12 of the City's *Comprehensive Plan 2010-2030* and Section 23-65(d)(3)a.1 of the Zoning Ordinance.

Leona Pond  
Annexation





Leona Pond  
Annexation

City Limits

E RICHARD ST

N BALLARD RD

N LEONA ST

ALLEY

HWY 96

E WISCONSIN AV

City Limits

GRAND VIEW RD

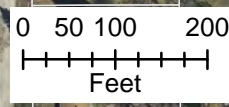
WOODLARK RD

N GREEN GROVE RD

Subject Parcel Portion  
Taxkey: 102009900



City Plan Commission  
2-13-18







**PETITION FOR DIRECT ANNEXATION BY UNANIMOUS APPROVAL  
PURSUANT TO SECTION 66.0217(2), WISCONSIN STATUTES  
WHERE NO ELECTORS RESIDE IN TERRITORY**

I/We, the undersigned, constituting all of the owners of the real property in which no electors reside in the following territory of the Town of Grand Chute, Outagamie County, Wisconsin, lying contiguous to the City of Appleton, petition the Common Council of the City of Appleton to annex the territory described below and shown on the attached scale map to the City of Appleton, Outagamie County, Wisconsin.

Part of Lot Nine (9), Lot Ten (10) and Lot Eleven (11) of **ROWE'S SUBDIVISION**, and part of Lot One (1) of **CERTIFIED SURVEY MAP NUMBER 6101** filed in Volume 36 of Certified Survey Maps on Page 6101 as Document Number 1866751 in the Outagamie County Register of Deeds Office, located in the Fractional Southwest Quarter (SW ¼) of Section 19, Township 21 North, Range 18 East, Town of Grand Chute, Outagamie County, Wisconsin, containing 11.3366 Acres of land m/l and being described by:

Commencing at the Southwest corner of said Section 19;

Thence North 00° 22' 42" East 1353.51 feet along the West line of the SW ¼ of said Section 19;

Thence North 76° 51' 35" East 33.94 feet to the Northwest corner of Lot 1 of said Certified Survey Map No.6101 and being coincident with the Southerly line of the Wisconsin Central Ltd. Railroad right of way and being the Point of Beginning;

Thence continue North 76° 51' 35" East 1321.82 feet along the Southerly line of the Wisconsin Central Ltd. Railroad right of way and being coincident with the Northerly line of Lot 1 of said Certified Survey Map No.6101;

Thence South 00° 44' 00" West 503.74 feet;

Thence South 66° 58' 00" West 829.60 feet;

Thence South 00° 47' 05" West 550.34 feet to the Northwesterly line of Wisconsin Avenue (a.k.a. S.T.H. 96);

Thence South 65° 57' 11" West 27.55 feet and being coincident to the Northwesterly line of Wisconsin Avenue to the East line of Bell Air Subdivision;

Thence North 00° 47' 05" East 1154.90 feet and being coincident to the East line of said Bell Air Subdivision to the Northerly line of Richard Street;

Thence South 76° 51' 35" West 514.22 feet and being coincident with the Northerly line of Richard Street to the East line of Ballard Road;

Thence North 00° 22' 42" East 51.42 feet and being coincident with the East line of Ballard Road to the Point of Beginning.


The current population of such territory is 0.

I/We, the undersigned, elect that this annexation shall take effect to the full extent consistent with outstanding priorities of other annexation, incorporation, or consolidation proceedings, if any.

I/We further respectfully request that the City Plan Commission initiate a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of P-I Public Institutional District.

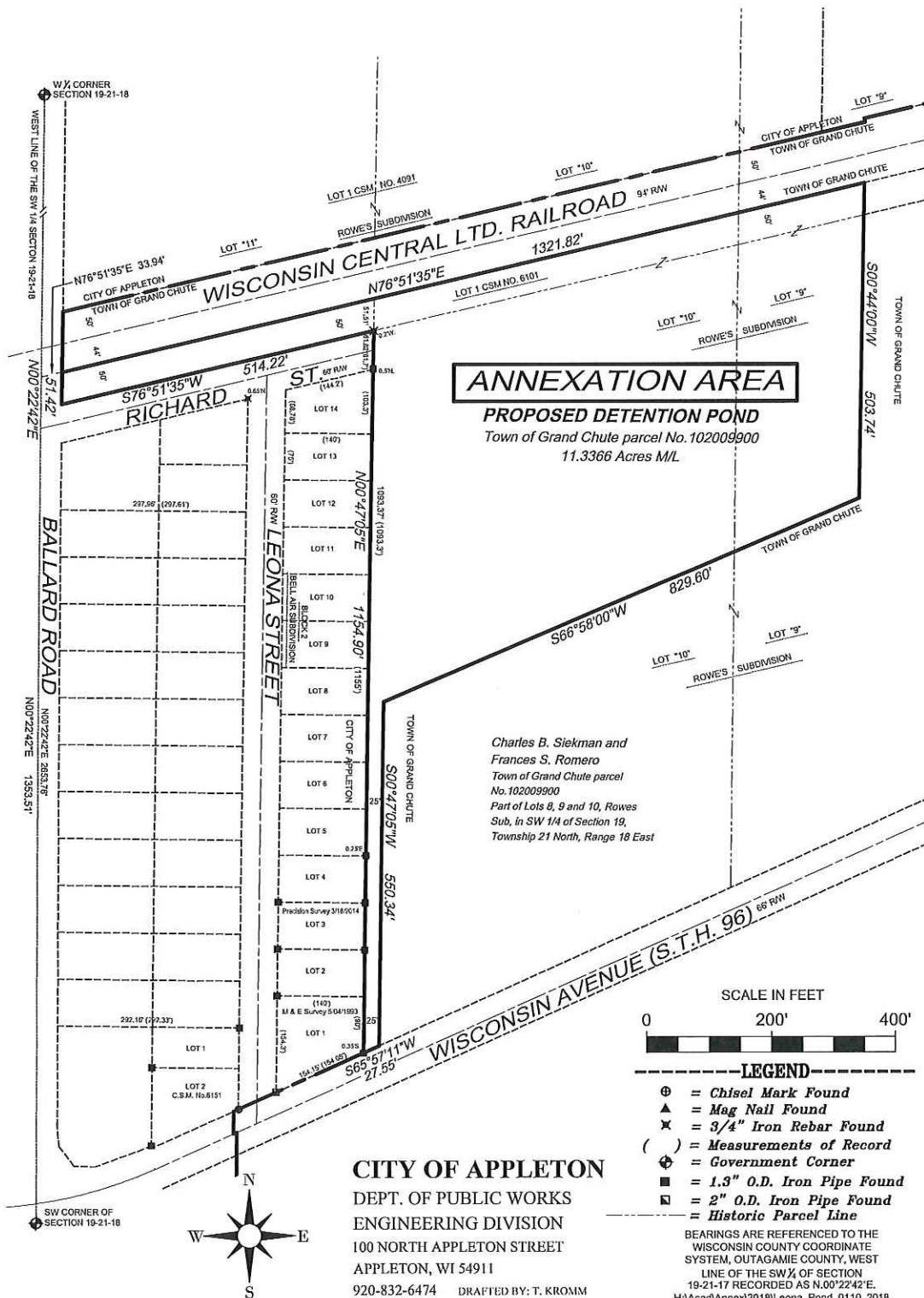
Area of lands to be annexed contains 11.3366 acres m/l.

Tax Parcel number of lands to be annexed: 102009900

| Signature of Petitioner   | Owner/Elector | Date of Signing | Address of Petitioner (Include Zip Code)     |
|---|---------------|-----------------|--|
|  | Owner         | 1-19-18         | 100 N. Appleton Street<br>Appleton, WI 54911 |
| Mayor Timothy Hanna   |               |                 |  |

# ANNEXATION EXHIBIT

Part of Lot 9, Lot 10 and Lot 11 of Rowe's Subdivision and Part of Lot 1 of Certified Survey Map No.6101, being located in the Southwest 1/4 of Section 19, Township 21 North, Range 18 East, Town of Grand Chute, Outagamie County, Wisconsin.







## MEMO

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**TO:** Members of the Finance and Utilities Committees

**FROM:** Paula Vandehey, Director of Public Works *PAV*

**DATE:** January 29, 2018

**SUBJECT:** The following 2018 Budget adjustment be approved to provide funding for sanitary sewer lift station and forcemain design per North Edgewood Estates Development Agreement:

|                               |             |
|-------------------------------|-------------|
| Sanitary Sewer Reconstruction | - \$100,000 |
| Lift Station/Forcemain Design | +\$100,000  |

---

The City Council recently approved the North Edgewood Estates Development Agreement. The agreement includes the requirement that the City fund the design of the sanitary lift station and forcemain in 2018. Because this development was presented to staff after the 2018 Budget was adopted, no funds were included in the Wastewater Budget for this project.

The Department of Public Works recently awarded two contracts for sanitary sewer reconstruction that were well under the budgeted amounts. Therefore, we request a budget adjustment to use these excess budget funds to fund this design work in 2018.

C: Tony Saucerman, Finance Director  
Bev Matheys, Managerial Accounting Coordinator



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

## MEMO

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**TO:** Finance Committee

**FROM:** Paula Vandehey, Director of Public Works *PAV*

**DATE:** January 29, 2018

**SUBJECT:** Request for City of Appleton to reimburse Developer \$10,000 of sanitary sewer and watermain connection fees as an incentive for the Creekside Estates Development.

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Developer Jason Mroz is doing a great job of developing areas in the City of Appleton where current infrastructure exists. A recent project completed was Pond View Estates on Glenhurst Drive. Eight (8) homes were constructed on the thirteen (13) lots within a one-year period. The Developer has a high level of confidence that the Creekside Estates thirteen (13) lots will develop just as quickly. Using conservative estimates, the 13 new homes would add approximately \$3.6 million in assessed value generating \$76,000 in new tax revenue annually. (Copy of Creekside Estates Plat is attached.)

As a financial incentive for the development, the Developer is requesting the City waive \$10,000 of the \$16,423.50 in sanitary sewer and watermain connection fees. In meeting with the Developer, Finance Director Saucerman wanted some assurance that the properties would get built on as quickly as possible. Therefore, instead of waiving the connection fee, the idea of reimbursing a portion when the development reached a certain threshold was proposed.

City staff supports the incentive for the development as it is well below the incentive percentage we have recently supported for other new subdivision developments. Therefore, we request approval to reimburse Developer Jason Mroz \$10,000 of connection fees once eight (8) homes have been constructed in the Creekside Estates Development.

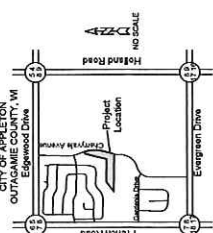
Attachment

C: Tony Saucerman, Finance Director  
Bev Matheys, Managerial Accounting Coordinator

# Creekside Estates

All of Lot 273 and lands designated "Lands to be Dedicated the City for Park, all being part of First Addition to Applecreek Estates, located in the Southeast 1/4 of the Northwest 1/4 of Section 08, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin

## LOCATION MAP



| Curve | Radius   | Chord Distance | Chord Length | Alt. Length | Central Angle |
|-------|----------|----------------|--------------|-------------|---------------|
| C1    | 1033.18' | S 89°52'46" E  | 63.17'       | 712.48'     | 34°42'51"     |
| C2    | 1033.18' | S 17°02'22" W  | 48.44'       | 46.44'      | 2°42'54"      |
| C3    | 1033.18' | S 14°05'19" W  | 65.00'       | 63.01'      | 2°18'52"      |
| C4    | 1033.18' | S 1°47'31" W   | 65.14'       | 65.16'      | 2°18'52"      |
| C5    | 1033.18' | S 67°31'21" W  | 64.40'       | 64.47'      | 2°18'52"      |
| C6    | 1033.18' | S 61°17'54" W  | 64.89'       | 64.89'      | 2°18'52"      |
| C7    | 1033.18' | S 51°00'44" W  | 63.71'       | 63.71'      | 2°18'52"      |
| C8    | 1033.18' | S 51°11'24" E  | 65.00'       | 65.07'      | 2°18'52"      |
| C9    | 1033.18' | S 89°41'09" E  | 61.89'       | 61.89'      | 2°18'52"      |
| C10   | 1033.18' | S 14°05'19" E  | 236.62'      | 235.11'     | 1°11'56"      |
| C11   | 1033.18' | S 12°02'39" W  | 216.51'      | 216.51'     | 1°11'56"      |
| C12   | 1033.18' | S 12°02'39" W  | 65.40'       | 65.47'      | 2°18'52"      |
| C13   | 1033.18' | S 17°02'22" W  | 65.00'       | 65.00'      | 2°18'52"      |
| C14   | 1033.18' | S 17°02'22" W  | 32.31'       | 32.31'      | 1°11'56"      |
| C15   | 1033.18' | S 89°52'46" W  | 65.56'       | 65.57'      | 2°18'52"      |

| LINE TABLE |               |        |
|------------|---------------|--------|
| Line       | Bearing       | Length |
| L1         | N 02°44'16" E | 89.04' |
| L2         | N 13°33'34" E | 58.01' |
| L3         | N 15°41'52" E | 58.00' |
| L4         | N 10°16'20" E | 60.16' |
| L5         | N 13°09'31" E | 58.02' |
| L6         | N 10°42'58" E | 58.14' |
| L7         | N 15°41'40" E | 58.01' |
| L8         | N 12°55'17" E | 58.03' |

## NOTES

- All linear measurements have been made to the nearest one hundredth of a foot.
- All angular measurements have been made to the nearest 20 seconds and computed to the nearest half second.
- Outlet 3 is dedicated to the public for a public walking trail.
- Lands designated as "Lands to be Dedicated the City for Park" were not dedicated and the City of Appleton has released any rights to the lands with a quit claim deed recorded as Document Number 272265 recorded on Dec 15th, 2017.
- All elevations shown are NGVD 29, per City Datum.
- All maintenance of the Landscape, Storm Sewer and Drainage Easement are the responsibility of the Creekside Estates Home Owners association.

## LEGEND

- 1/4" Roblar Found
- 1/4" x 3/4" Steel Roblar @ 4.30bbl/F SET
- 3/4" x 24" Steel Roblar @ 1.50bbl/F SET
- SF Lot areas in square feet
- ( ) Recorded As

James R. Seibold, Wisconsin Professional Land Surveyor No. 5-2652  
jim@seiboldpro.com

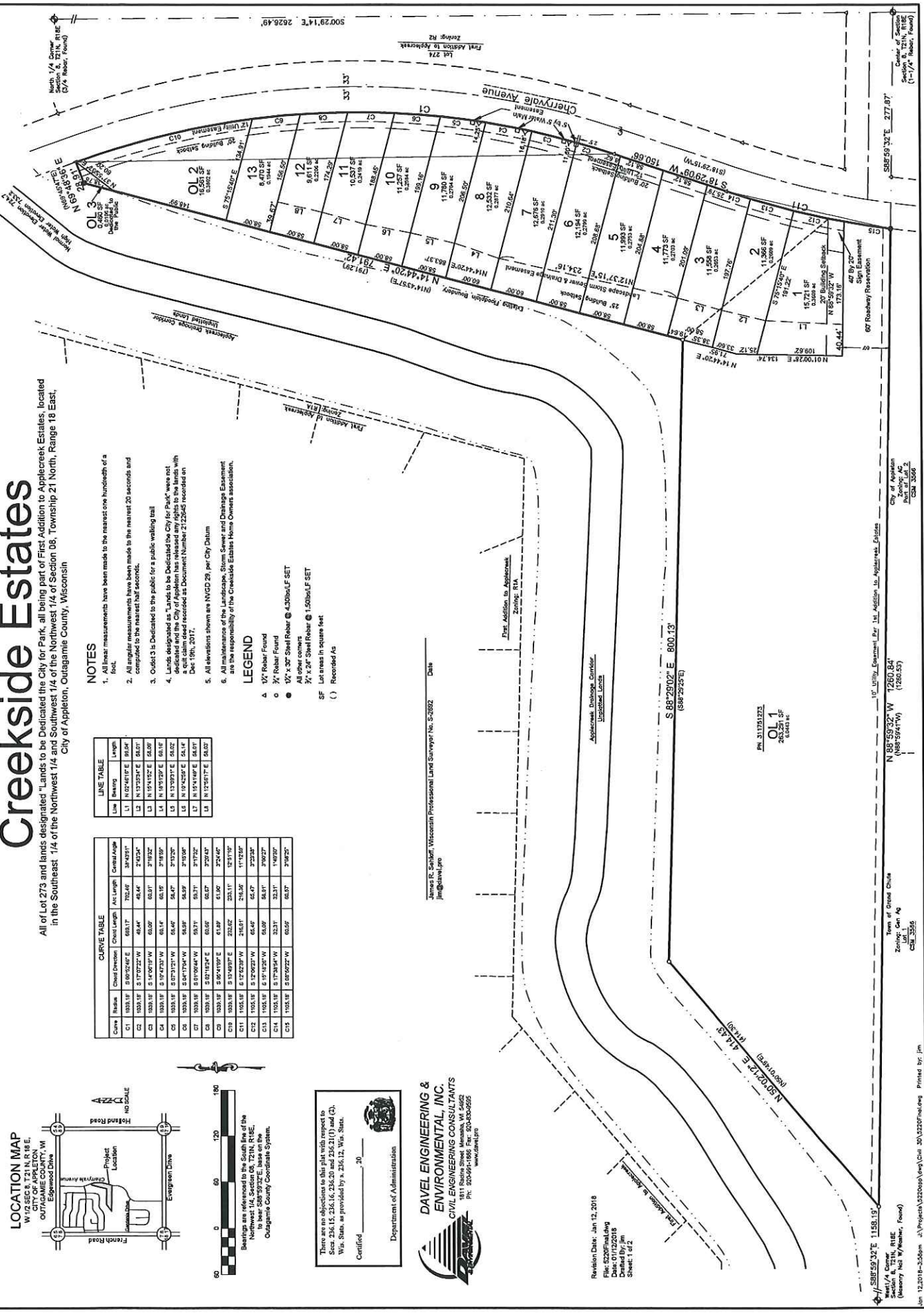
**DAVEL ENGINEERING & ENVIRONMENTAL, INC.**  
CIVIL ENGINEERING CONSULTANTS  
1811 Racine Street, Menasha, WI 54952  
PH: 920.929.0000 FAX: 920.929.0005  
www.davelinc.com

There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats., as provided by s. 236.12, Wis. Stats.

Certified \_\_\_\_\_ 30 \_\_\_\_\_

Department of Administration

Revision Date: Jan 12, 2018  
File: 5220Final.dwg  
Date: 01/12/2018  
Drawn by: JRS  
Sheet: 1 of 2







*"...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: 2/12/2018

RE: Action Item: Award contract to Chet Wesenberg Architect, LLC for design and engineering services for the Municipal Services Building Locker Room Renovation project for a contract of \$43,315 and a 7% contingency for a contract not to exceed \$46,347.

The 2018 Capital Improvement budget allocated \$375,000 for the Municipal Services Building (MSB) Locker Room Renovation Project. For the most part, the existing locker rooms are original to the 1966 construction of the MSB Facility. We are currently having plumbing issues with the current fixtures and the locker room needs to be updated.

Three firms responded to Request for Proposals. They were evaluated for relevant experience, project success, project team, project understanding/study methodology, project schedule, and cost. It was important that the firms clearly demonstrated experience in existing facility remodeling projects. The evaluating team for the proposals consisted of: the Facilities Project Manager, Facilities Manager, and the PRFMD Director.

| <b><u>Firm</u></b>            | <b><u>Proposal Score</u></b> | <b><u>Proposal Cost</u></b> | <b><u>Est. Hours</u></b> |
|-------------------------------|------------------------------|-----------------------------|--------------------------|
| Chet Wesenberg Architect, LLC | 72.60                        | \$43,315                    | 433/hrs.                 |
| Performa                      | 64.40                        | \$41,035                    | 271/hrs.                 |
| McMahon                       | 62.20                        | \$31,900                    | 270/hrs.                 |

After careful review our team recommends awarding a contract to Chet Wesenberg Architect, LLC for \$43,315 with a 7% contingency. The project team unanimously chose Chet Wesenberg Architect, LLC based upon experience, cost, and their proposal. Even though the other firms may have provided a lower cost, the selection process determined that the other firms did not demonstrate experience of similar remodeling projects along with a thorough understanding of the project scope. We believe that our choice of Chet Wesenberg Architect, LLC will ensure that the investment is fully maximized.

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: 2/12/2018

RE: Action: Award the Fire Station #5 "2018 Roof Replacement Project" contract to Kaschak Roofing, Inc. in the amount of \$114,900 with a contingency of 10% for a project total not to exceed \$126,390.

The 2018 Capital Improvement Plan includes \$150,000 for the replacement of the roof at Fire Station #5. Fire Station #5 was constructed in 1991, and in 2004 the roof was replaced like in kind. Based upon the short lifespan of the roof, we hired a consulting engineer to complete a comprehensive roof investigation on the building. During the investigation, it was determined that the building was not constructed with the proper insulation and venting, thus causing the shingles to prematurely fail. This project will address and correct the issues with the insulation, venting, and shingles at the Fire Station #5 facility. Our annual roof inspection program identifies roofing in need of replacement and allocates resources to allow for proactive replacement to protect and preserve the facility's asset.

The bids were received as follows:

|                                  |                                   |
|----------------------------------|-----------------------------------|
| <b>Kaschak Roofing (low bid)</b> | <b>\$114,900</b>                  |
| Weinert Roofing                  | \$121,398                         |
| MJI Building Services            | \$124,500                         |
| Oshkosh Industrial Roofing       | \$134,000                         |
| Pioneer Roofing                  | Did not meet bidding requirements |

Our consulting engineer has written the City of Appleton a formal letter of recommendation to award the contract to Kaschak Roofing, Inc. The Parks, Recreation, and Facilities Management Department has also reviewed the bids and is in agreement with the engineer's recommendation. Therefore, we recommend awarding the contract to Kaschak Roofing, Inc in the amount of \$114,900 plus a contingency of 10% only to be utilized as needed.

Please contact me at 832-5572 or at [dean.gazza@appleton.org](mailto:dean.gazza@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:**

W-18 Sewer & Water Main Reconstruction No. 2

**Be awarded to:**

Name: Kruczek Construction, Inc.

Address: 3636 Kewaunee Road

Green Bay, WI 54311

**In the amount of :** 1,323,323.00

**With a 5 % contingency of :** \$66,166.15

**For a project total not to exceed :** \$1,389,489.15

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

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

Budget: \$1,469,280.00

Estimate: \$1,535,280.00

Committee Date: 02/12/18

Council Date: 02/21/18

**BID TABULATION**

**SEWER & WATERMAIN RECONSTRUCTION NO. 2**

**Unit W-18**

**19-Jan-18**

| ITEM | DESCRIPTION                                | Quantity | Units    | Kruczek Const. |              | Dorner Inc. |              | Van Straten Const. |              | PTS Contractors, Inc. |                |
|------|--|----------|----------|----------------|--------------|-------------|--------------|--------------------|--------------|-----------------------|----------------|
|      |  |          |          | Unit Price     | Total        | Unit Price  | Total        | Unit Price         | Total        | Unit Price            | Total          |
| 1.   | Furnish & Install 12" Water Main           | 870      | lin.ft.  | \$57.00        | \$49,590.00  | \$66.00     | \$57,420.00  | \$75.00            | \$65,250.00  | \$96.00               | \$83,520.00    |
| 2.   | Furnish & Install 8" Water Main            | 4,790    | lin.ft.  | \$61.00        | \$292,190.00 | \$70.00     | \$335,300.00 | \$60.00            | \$287,400.00 | \$84.00               | * \$402,360.00 |
| 3.   | Furnish & Install 6" Water Main            | 60       | lin.ft.  | \$145.00       | \$8,700.00   | \$139.00    | \$8,340.00   | \$70.00            | \$4,200.00   | \$128.00              | \$7,680.00     |
| 4.   | Furnish & Install 6" Hydrant Lead          | 60       | lin.ft.  | \$80.00        | \$4,800.00   | \$45.00     | \$2,700.00   | \$70.00            | \$4,200.00   | \$73.00               | \$4,380.00     |
| 5.   | Furnish & Install Hydrant                  | 15       | ea.      | \$3,900.00     | \$58,500.00  | \$3,419.00  | \$51,285.00  | \$4,000.00         | \$60,000.00  | \$3,417.00            | \$51,255.00    |
| 6.   | Furnish & Install 12" Gate Valve with Box  | 6        | ea.      | \$2,800.00     | \$16,800.00  | \$2,570.00  | \$15,420.00  | \$3,500.00         | \$21,000.00  | \$2,494.00            | \$14,964.00    |
| 7.   | Furnish & Install 8" Gate Valve with Box   | 32       | ea.      | \$1,700.00     | \$54,400.00  | \$1,555.00  | \$49,760.00  | \$2,000.00         | \$64,000.00  | \$1,522.00            | \$48,704.00    |
| 8.   | Furnish & Install 6" Gate Valve with Box   | 16       | ea.      | \$1,250.00     | \$20,000.00  | \$1,136.00  | \$18,176.00  | \$1,500.00         | \$24,000.00  | \$1,104.00            | \$17,664.00    |
| 9.   | Furnish & Install 12" Bend                 | 4        | ea.      | \$650.00       | \$2,600.00   | \$459.00    | \$1,836.00   | \$600.00           | \$2,400.00   | \$444.00              | \$1,776.00     |
| 10.  | Furnish & Install 8" Bend                  | 50       | ea.      | \$300.00       | \$15,000.00  | \$248.00    | \$12,400.00  | \$400.00           | \$20,000.00  | \$240.00              | \$12,000.00    |
| 11.  | Furnish & Install 6" Bend                  | 4        | ea.      | \$300.00       | \$1,200.00   | \$182.00    | \$728.00     | \$200.00           | \$800.00     | \$176.00              | \$704.00       |
| 12.  | Furnish & Install 1" Service               | 1,100    | lin.ft.  | \$65.00        | \$71,500.00  | \$35.00     | \$38,500.00  | \$50.00            | \$55,000.00  | \$78.00               | \$85,800.00    |
| 13.  | Furnish & Install 2" Service               | 20       | lin.ft.  | \$85.00        | \$1,700.00   | \$55.00     | \$1,100.00   | \$55.00            | \$1,100.00   | \$89.00               | \$1,780.00     |
| 14.  | Furnish & Install 11/2" Service            | 20       | lin.ft.  | \$85.00        | \$1,700.00   | \$50.00     | \$1,000.00   | \$55.00            | \$1,100.00   | \$85.00               | \$1,700.00     |
| 15.  | Service Connection                         | 79       | ea.      | \$200.00       | \$15,800.00  | \$639.00    | \$50,481.00  | \$500.00           | \$39,500.00  | \$182.00              | \$14,378.00    |
| 16.  | Curb Box (Complete)                        | 79       | ea.      | \$300.00       | \$23,700.00  | \$311.00    | \$24,569.00  | \$500.00           | \$39,500.00  | \$388.00              | \$30,652.00    |
| 17.  | Furnish & Install 15" Sanitary Sewer       | 410      | lin.ft.  | \$96.00        | \$39,360.00  | \$108.00    | \$44,280.00  | \$90.00            | \$36,900.00  | \$105.00              | \$43,050.00    |
| 18.  | Furnish & Install 8" Sanitary Sewer        | 1,460    | lin.ft.  | \$78.00        | \$113,880.00 | \$90.00     | \$131,400.00 | \$90.00            | \$131,400.00 | \$79.00               | \$115,340.00   |
| 19.  | Reconnect Sanitary Lateral                 | 112      | ea.      | \$400.00       | \$44,800.00  | \$250.00    | \$28,000.00  | \$400.00           | \$44,800.00  | \$110.00              | \$12,320.00    |
| 20.  | Furnish & Install 4" - 6" Sanitary Lateral | 2,260    | lin.ft.  | \$74.00        | \$167,240.00 | \$70.00     | \$158,200.00 | \$42.00            | \$94,920.00  | \$83.00               | \$187,560.00   |
| 21.  | Furnish & Install Sanitary Manhole         | 50       | vert.ft. | \$170.00       | \$8,500.00   | \$240.00    | \$12,000.00  | \$400.00           | \$20,000.00  | \$216.00              | \$10,800.00    |
| 22.  | Furnish & Install Sanitary Manhole Casting | 5        | ea.      | \$500.00       | \$2,500.00   | \$386.00    | \$1,930.00   | \$600.00           | \$3,000.00   | \$493.00              | \$2,465.00     |
| 23.  | Disconnect Sanitary Lateral at main        | 2        | ea.      | \$1,100.00     | \$2,200.00   | \$480.00    | \$960.00     | \$1,000.00         | \$2,000.00   | \$961.00              | \$1,922.00     |
| 24.  | Furnish & Install Flowable Fill            | 30       | Cu. Yds. | \$90.00        | \$2,700.00   | \$254.00    | \$7,620.00   | \$75.00            | \$2,250.00   | \$75.00               | \$2,250.00     |
| 25.  | Furnish & Install 15" Storm Sewer          | 30       | lin.ft.  | \$86.00        | \$2,580.00   | \$85.00     | \$2,550.00   | \$65.00            | \$1,950.00   | \$86.00               | \$2,580.00     |

## SEWER &amp; WATERMAIN RECONSTRUCTION NO. 2

## BID TABULATION

Unit W-18

19-Jan-18

| ITEM | DESCRIPTION                                   | Quantity | Units    | Kruczek Const. |              | Dorner Inc. |              | Van Straten Const. |              | PTS Contractors, Inc. |              |
|------|---|----------|----------|----------------|--------------|-------------|--------------|--------------------|--------------|-----------------------|--------------|
|      |   |          |          | Unit Price     | Total        | Unit Price  | Total        | Unit Price         | Total        | Unit Price            | Total        |
| 26.  | Furnish & Install 12" Storm Sewer             | 2,400    | lin.ft.  | \$61.00        | \$146,400.00 | \$56.00     | \$134,400.00 | \$55.00            | \$132,000.00 | \$60.00               | \$144,000.00 |
| 27.  | Furnish & Install 12" Storm Lateral           | 30       | lin.ft.  | \$65.00        | \$1,950.00   | \$51.00     | \$1,530.00   | \$55.00            | \$1,650.00   | \$65.00               | \$1,950.00   |
| 28.  | Furnish & Install 6" Storm Lateral            | 1,200    | lin.ft.  | \$42.00        | \$50,400.00  | \$39.00     | \$46,800.00  | \$45.00            | \$54,000.00  | \$44.00               | \$52,800.00  |
| 29.  | Furnish & Install 12" Inlet Lead              | 290      | lin.ft.  | \$63.00        | \$18,270.00  | \$53.00     | \$15,370.00  | \$65.00            | \$18,850.00  | \$68.00               | \$19,720.00  |
| 30.  | Furnish & Install 10" Inlet Lead              | 20       | lin.ft.  | \$75.00        | \$1,500.00   | \$50.00     | \$1,000.00   | \$65.00            | \$1,300.00   | \$68.00               | \$1,360.00   |
| 31.  | Storm Lateral Hook-up                         | 10       | ea.      | \$150.00       | \$1,500.00   | \$50.00     | \$500.00     | \$400.00           | \$4,000.00   | \$81.00               | \$810.00     |
| 32.  | Furnish & Install Storm Manhole               | 90       | vert.ft. | \$200.00       | \$18,000.00  | \$229.00    | \$20,610.00  | \$300.00           | \$27,000.00  | \$210.00              | \$18,900.00  |
| 33.  | Furnish & Install Storm Manhole Casting       | 16       | ea.      | \$450.00       | \$7,200.00   | \$369.00    | \$5,904.00   | \$600.00           | \$9,600.00   | \$472.00              | \$7,552.00   |
| 34.  | Furnish & Install "E" Inlet w/Frame & Grate   | 2        | ea.      | \$1,800.00     | \$3,600.00   | \$1,700.00  | \$3,400.00   | \$1,900.00         | \$3,800.00   | \$1,533.00            | \$3,066.00   |
| 35.  | Furnish & Install "C" Inlet w/Frame & Grate   | 9        | ea.      | \$1,800.00     | \$16,200.00  | \$1,700.00  | \$15,300.00  | \$1,900.00         | \$17,100.00  | \$1,520.00            | \$13,680.00  |
| 36.  | Furnish & Install Yard Drain w/Casting        | 1        | ea.      | \$1,400.00     | \$1,400.00   | \$1,400.00  | \$1,400.00   | \$1,000.00         | \$1,000.00   | \$1,242.00            | \$1,242.00   |
| 37.  | Spot Repair (Under 9')                        | 1        | ea.      | \$2,800.00     | \$2,800.00   | \$5,506.00  | \$5,506.00   | \$2,500.00         | \$2,500.00   | \$3,641.00            | \$3,641.00   |
| 38.  | Pour Manhole Bottom                           | 1        | ea.      | \$500.00       | \$500.00     | \$558.00    | \$558.00     | \$1,000.00         | \$1,000.00   | \$1,127.00            | \$1,127.00   |
| 39.  | Abandon Manhole                               | 1        | ea.      | \$500.00       | \$500.00     | \$275.00    | \$275.00     | \$500.00           | \$500.00     | \$337.00              | \$337.00     |
| 40.  | Abandon Inlet and Lead                        | 1        | ea.      | \$650.00       | \$650.00     | \$175.00    | \$175.00     | \$250.00           | \$250.00     | \$1,205.00            | \$1,205.00   |
| 41.  | Furnish & Install Silt Fence                  | 800      | lin.ft.  | \$2.00         | \$1,600.00   | \$2.00      | \$1,600.00   | \$2.00             | \$1,600.00   | \$3.00                | \$2,400.00   |
| 42.  | Furnish & Install Tracking Pad                | 1        | ea.      | \$1,000.00     | \$1,000.00   | \$1,000.00  | \$1,000.00   | \$1,000.00         | \$1,000.00   | \$1,000.00            | \$1,000.00   |
| 43.  | Furnish & Install Sediment Logs               | 50       | lin.ft.  | \$10.00        | \$500.00     | \$25.00     | \$1,250.00   | \$9.00             | \$450.00     | \$13.00               | \$650.00     |
| 44.  | Furnish & Install Type "D-M" Inlet Protection | 50       | ea.      | \$70.00        | \$3,500.00   | \$96.00     | \$4,800.00   | \$100.00           | \$5,000.00   | \$100.00              | \$5,000.00   |
| 45.  | Furnish & Install Site Restoration @ WWTP     | 900      | Sq. Yds. | \$2.50         | \$2,250.00   | \$3.81      | \$3,429.00   | \$3.00             | \$2,700.00   | \$9.10                | \$8,190.00   |
| 46.  | Temporary Traffic Control                     | 1        | LS       | \$21,660.00    | \$21,660.00  | \$15,000.00 | \$15,000.00  | \$50,000.00        | \$50,000.00  | \$14,931.00           | \$14,931.00  |
| 47.  | Contaminated Soil Removal                     | 150      | cu.yds.  | \$0.01         | \$1.50       | \$10.00     | \$1,500.00   | \$0.01             | \$1.50       | \$23.00               | \$3,450.00   |
| 48.  | Furnish & Install Extra Stone Bedding         | 150      | tons     | \$0.01         | \$1.50       | \$11.96     | \$1,794.00   | \$0.01             | \$1.50       | \$11.00               | \$1,650.00   |

\* Corrected Figure

0

\$1,339,056.00

\$1,361,973.00

\* \$1,466,285.00

## SEWER &amp; WATERMAIN RECONSTRUCTION NO. 2

Unit W-18

19-Jan-18

| ITEM | DESCRIPTION                                | Quantity | Units     | David Tenor Corporation |              | Advance Construction, Inc. |              | Jossart Brothers Inc. |              | Carl Bowers & Sons |              |
|------|--|----------|-----------|-------------------------|--------------|----------------------------|--------------|-----------------------|--------------|--------------------|--------------|
|      |  |          |           | Unit Price              | Total        | Unit Price                 | Total        | Unit Price            | Total        | Unit Price         | Total        |
| 1.   | Furnish & Install 12" Water Main           | 870      | lin. ft.  | \$79.00                 | \$68,730.00  | \$59.80                    | \$52,026.00  | \$94.00               | \$81,780.00  | \$65.00            | \$56,550.00  |
| 2.   | Furnish & Install 8" Water Main            | 4,790    | lin. ft.  | \$79.00                 | \$378,410.00 | \$75.50                    | \$361,645.00 | \$84.00               | \$402,360.00 | \$107.00           | \$512,530.00 |
| 3.   | Furnish & Install 6" Water Main            | 60       | lin. ft.  | \$120.00                | \$7,200.00   | \$278.00                   | \$16,680.00  | \$80.00               | \$4,800.00   | \$100.00           | \$6,000.00   |
| 4.   | Furnish & Install 6" Hydrant Lead          | 60       | lin. ft.  | \$80.00                 | \$4,800.00   | \$56.70                    | \$3,402.00   | \$80.00               | \$4,800.00   | \$90.00            | \$5,400.00   |
| 5.   | Furnish & Install Hydrant                  | 15       | ea.       | \$3,650.00              | \$54,750.00  | \$3,875.00                 | \$58,125.00  | \$3,500.00            | \$52,500.00  | \$3,400.00         | \$51,000.00  |
| 6.   | Furnish & Install 12" Gate Valve with Box  | 6        | ea.       | \$2,650.00              | \$15,900.00  | \$3,387.00                 | \$20,322.00  | \$2,750.00            | \$16,500.00  | \$3,000.00         | \$18,000.00  |
| 7.   | Furnish & Install 8" Gate Valve with Box   | 32       | ea.       | \$1,645.00              | \$52,640.00  | \$1,490.00                 | \$47,680.00  | \$1,650.00            | \$52,800.00  | \$1,750.00         | \$56,000.00  |
| 8.   | Furnish & Install 6" Gate Valve with Box   | 16       | ea.       | \$1,190.00              | \$19,040.00  | \$1,078.00                 | \$17,248.00  | \$1,200.00            | \$19,200.00  | \$1,350.00         | \$21,600.00  |
| 9.   | Furnish & Install 12" Bend                 | 4        | ea.       | \$495.00                | \$1,980.00   | \$540.00                   | \$2,160.00   | \$510.00              | \$2,040.00   | \$650.00           | \$2,600.00   |
| 10.  | Furnish & Install 8" Bend                  | 50       | ea.       | \$295.00                | \$14,750.00  | \$288.00                   | \$14,400.00  | \$275.00              | \$13,750.00  | \$350.00           | \$17,500.00  |
| 11.  | Furnish & Install 6" Bend                  | 4        | ea.       | \$230.00                | \$920.00     | \$215.00                   | \$860.00     | \$200.00              | \$800.00     | \$300.00           | \$1,200.00   |
| 12.  | Furnish & Install 1" Service               | 1,100    | lin. ft.  | \$74.00                 | \$81,400.00  | \$56.60                    | \$62,260.00  | \$98.00               | \$107,800.00 | \$78.00            | \$85,800.00  |
| 13.  | Furnish & Install 2" Service               | 20       | lin. ft.  | \$78.00                 | \$1,560.00   | \$81.20                    | \$1,624.00   | \$125.00              | \$2,500.00   | \$100.00           | \$2,000.00   |
| 14.  | Furnish & Install 1 1/2" Service           | 20       | lin. ft.  | \$78.00                 | \$1,560.00   | \$57.00                    | \$1,140.00   | \$120.00              | \$2,400.00   | \$100.00           | \$2,000.00   |
| 15.  | Service Connection                         | 79       | ea.       | \$350.00                | \$27,650.00  | \$300.00                   | \$23,700.00  | \$175.00              | \$13,825.00  | \$500.00           | \$39,500.00  |
| 16.  | Curb Box (Complete)                        | 79       | ea.       | \$275.00                | \$21,725.00  | \$300.00                   | \$23,700.00  | \$350.00              | \$27,650.00  | \$400.00           | \$31,600.00  |
| 17.  | Furnish & Install 15" Sanitary Sewer       | 410      | lin. ft.  | \$102.00                | \$41,820.00  | \$119.00                   | \$48,790.00  | \$135.00              | \$55,350.00  | \$131.00           | \$53,710.00  |
| 18.  | Furnish & Install 8" Sanitary Sewer        | 1,460    | lin. ft.  | \$86.00                 | \$125,560.00 | \$97.00                    | \$141,620.00 | \$107.00              | \$156,220.00 | \$110.00           | \$160,600.00 |
| 19.  | Reconnect Sanitary Lateral                 | 112      | ea.       | \$275.00                | \$30,800.00  | \$123.00                   | \$13,776.00  | \$200.00              | \$22,400.00  | \$400.00           | \$44,800.00  |
| 20.  | Furnish & Install 4" - 6" Sanitary Lateral | 2,260    | lin. ft.  | \$81.00                 | \$183,060.00 | \$95.74                    | \$216,372.40 | \$85.00               | \$192,100.00 | \$85.00            | \$192,100.00 |
| 21.  | Furnish & Install Sanitary Manhole         | 50       | vert. ft. | \$316.00                | \$15,800.00  | \$220.00                   | \$11,000.00  | \$250.00              | \$12,500.00  | \$300.00           | \$15,000.00  |
| 22.  | Furnish & Install Sanitary Manhole Casting | 5        | ea.       | \$440.00                | \$2,200.00   | \$420.00                   | \$2,100.00   | \$400.00              | \$2,000.00   | \$500.00           | \$2,500.00   |
| 23.  | Disconnect Sanitary Lateral at main        | 2        | ea.       | \$1,000.00              | \$2,000.00   | \$500.00                   | \$1,000.00   | \$1,250.00            | \$2,500.00   | \$1,200.00         | \$2,400.00   |
| 24.  | Furnish & Install Flowable Fill            | 30       | Cu. Yds.  | \$80.00                 | \$2,400.00   | \$75.00                    | \$2,250.00   | \$100.00              | \$3,000.00   | \$100.00           | \$3,000.00   |
| 25.  | Furnish & Install 15" Storm Sewer          | 30       | lin. ft.  | \$92.00                 | \$2,760.00   | \$92.80                    | \$2,784.00   | \$90.00               | \$2,700.00   | \$75.00            | \$2,250.00   |

## SEWER &amp; WATERMAIN RECONSTRUCTION NO. 2

Unit W-18

19-Jan-18

| ITEM | DESCRIPTION                                   | Quantity | Units    | David Tenor Corporation |              | Advance Construction, Inc. |              | Jossart Brothers Inc. |              | Carl Bowers & Sons |              |
|------|---|----------|----------|-------------------------|--------------|----------------------------|--------------|-----------------------|--------------|--------------------|--------------|
|      |   |          |          | Unit Price              | Total        | Unit Price                 | Total        | Unit Price            | Total        | Unit Price         | Total        |
| 26.  | Furnish & Install 12" Storm Sewer             | 2,400    | lin.ft.  | \$65.00                 | \$156,000.00 | \$69.20                    | \$166,080.00 | \$83.00               | \$199,200.00 | \$65.00            | \$156,000.00 |
| 27.  | Furnish & Install 12" Storm Lateral           | 30       | lin.ft.  | \$65.00                 | \$1,950.00   | \$89.30                    | \$2,679.00   | \$83.00               | \$2,490.00   | \$65.00            | \$1,950.00   |
| 28.  | Furnish & Install 6" Storm Lateral            | 1,200    | lin.ft.  | \$46.00                 | \$55,200.00  | \$50.00                    | \$60,000.00  | \$62.00               | \$74,400.00  | \$55.00            | \$66,000.00  |
| 29.  | Furnish & Install 12" Inlet Lead              | 290      | lin.ft.  | \$69.00                 | \$20,010.00  | \$88.40                    | \$25,636.00  | \$83.00               | \$24,070.00  | \$75.00            | \$21,750.00  |
| 30.  | Furnish & Install 10" Inlet Lead              | 20       | lin.ft.  | \$69.00                 | \$1,380.00   | \$82.60                    | \$1,652.00   | \$80.00               | \$1,600.00   | \$75.00            | \$1,500.00   |
| 31.  | Storm Lateral Hook-up                         | 10       | ea.      | \$200.00                | \$2,000.00   | \$123.00                   | \$1,230.00   | \$200.00              | \$2,000.00   | \$250.00           | \$2,500.00   |
| 32.  | Furnish & Install Storm Manhole               | 90       | vert.ft. | \$325.00                | \$29,250.00  | \$250.00                   | \$22,500.00  | \$325.00              | \$29,250.00  | \$300.00           | \$27,000.00  |
| 33.  | Furnish & Install Storm Manhole Casting       | 16       | ea.      | \$375.00                | \$6,000.00   | \$364.00                   | \$5,824.00   | \$400.00              | \$6,400.00   | \$500.00           | \$8,000.00   |
| 34.  | Furnish & Install "E" Inlet w/Frame & Grate   | 2        | ea.      | \$1,600.00              | \$3,200.00   | \$1,944.00                 | \$3,888.00   | \$1,825.00            | \$3,650.00   | \$1,900.00         | \$3,800.00   |
| 35.  | Furnish & Install "C" Inlet w/Frame & Grate   | 9        | ea.      | \$1,590.00              | \$14,310.00  | \$1,931.00                 | \$17,379.00  | \$1,800.00            | \$16,200.00  | \$1,900.00         | \$17,100.00  |
| 36.  | Furnish & Install Yard Drain w/Casting        | 1        | ea.      | \$1,195.00              | \$1,195.00   | \$1,570.00                 | \$1,570.00   | \$1,600.00            | \$1,600.00   | \$1,700.00         | \$1,700.00   |
| 37.  | Spot Repair (Under 9')                        | 1        | ea.      | \$2,900.00              | \$2,900.00   | \$3,200.00                 | \$3,200.00   | \$5,000.00            | \$5,000.00   | \$3,500.00         | \$3,500.00   |
| 38.  | Pour Manhole Bottom                           | 1        | ea.      | \$600.00                | \$600.00     | \$500.00                   | \$500.00     | \$750.00              | \$750.00     | \$1,000.00         | \$1,000.00   |
| 39.  | Abandon Manhole                               | 1        | ea.      | \$1,200.00              | \$1,200.00   | \$500.00                   | \$500.00     | \$300.00              | \$300.00     | \$1,500.00         | \$1,500.00   |
| 40.  | Abandon Inlet and Lead                        | 1        | ea.      | \$750.00                | \$750.00     | \$350.00                   | \$350.00     | \$300.00              | \$300.00     | \$700.00           | \$700.00     |
| 41.  | Furnish & Install Silt Fence                  | 800      | lin.ft.  | \$2.00                  | \$1,600.00   | \$1.50                     | \$1,200.00   | \$2.00                | \$1,600.00   | \$2.50             | \$2,000.00   |
| 42.  | Furnish & Install Tracking Pad                | 1        | ea.      | \$850.00                | \$850.00     | \$1,200.00                 | \$1,200.00   | \$750.00              | \$750.00     | \$1,200.00         | \$1,200.00   |
| 43.  | Furnish & Install Sediment Logs               | 50       | lin.ft.  | \$15.00                 | \$750.00     | \$10.00                    | \$500.00     | \$10.00               | \$500.00     | \$10.00            | \$500.00     |
| 44.  | Furnish & Install Type "D-M" Inlet Protection | 50       | ea.      | \$100.00                | \$5,000.00   | \$50.00                    | \$2,500.00   | \$75.00               | \$3,750.00   | \$100.00           | \$5,000.00   |
| 45.  | Furnish & Install Site Restoration @ WWTP     | 900      | Sq. Yds. | \$6.50                  | \$5,850.00   | \$7.50                     | \$6,750.00   | \$10.00               | \$9,000.00   | \$5.00             | \$4,500.00   |
| 46.  | Temporary Traffic Control                     | 1        | LS       | \$15,250.00             | \$15,250.00  | \$35,000.00                | \$35,000.00  | \$25,000.00           | \$25,000.00  | \$50,000.00        | \$50,000.00  |
| 47.  | Contaminated Soil Removal                     | 150      | cu.yds.  | \$25.00                 | \$3,750.00   | \$15.00                    | \$2,250.00   | \$15.00               | \$2,250.00   | \$30.00            | \$4,500.00   |
| 48.  | Furnish & Install Extra Stone Bedding         | 150      | tons     | \$12.00                 | \$1,800.00   | \$15.00                    | \$2,250.00   | \$15.00               | \$2,250.00   | \$15.00            | \$2,250.00   |

\* Corrected Figure

\$1,490,210.00

\$1,511,302.40

\$1,666,585.00

\$1,769,590.00



## LEGAL SERVICES DEPARTMENT

Office of the City Attorney

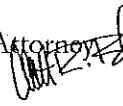
100 North Appleton Street

Appleton, WI 54911

Phone: 920/832-6423

Fax: 920/832-5962

**TO:** Members of the Finance Committee

**FROM:** Christopher R. Behrens, Deputy City Attorney 

**DATE:** January 18, 2018

**RE:** Resolution for Reauthorization of Self-Insurance

---

In January 1990, the City opted to self-insure its Worker's Compensation exposures pursuant to the requirements of Wisconsin Administrative Code, Section DWD 80.60(3). The City has remained self-insured since that time. However, the requirements of DWD 80.60(3)(b)1. state,

"Any political subdivision or taxing authority of the State electing to self-insure shall notify the Department in writing of the election before undertaking self insurance, every three (3) years after the initial notice, and thirty (30) days before withdrawing from the self-insurance program."

Therefore, the attached Resolution needs to be approved in order to comply with state law regarding self-insurance for our Worker's Compensation exposures.

Attachment

CRB:jljg

---

James P. Walsh  
City Attorney

Christopher R. Behrens  
Deputy City Attorney

Amanda Abshire  
Assistant City Attorney

Darrin M. Glad  
Assistant City Attorney

**RESOLUTION**  
***For Reauthorization of Self-Insurance***

WHEREAS, the City of Appleton is a qualified political subdivision of the State of Wisconsin; and

WHEREAS, the Wisconsin Worker's Compensation Act (Act) provides that employers covered by the Act either insure their liability with worker's compensation insurance carriers authorized to do business in Wisconsin, or to be exempted (self-insured) from insuring liabilities with a carrier and thereby assuming the responsibility for its own worker's compensation risk and payment; and

WHEREAS, the State and its political subdivisions may self-insure worker's compensation without a special order from the Department of Workforce Development (Department) if they agree to report faithfully all compensible injuries and agree to comply with the Act and rules of the Department; and

WHEREAS, the Finance Committee at its February 12, 2018 meeting approved the continuation of the self-insured worker's compensation program, in compliance with Wisconsin Administrative Code DWD 80.60(3); and

NOW THEREFORE, BE IT RESOLVED, that the Common Council of the City of Appleton does ordain as follows:

1. Provide for the continuation of the self-insured worker's compensation program that is currently in effect.
2. Authorize the City Clerk to certify, and the Human Resources Director to forward said certified copies of this Resolution to the Worker's Compensation Division, Wisconsin Department of Workforce Development.

Adopted this \_\_\_\_\_ day of February, 2018.

**CITY OF APPLETON**

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

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

## Department of Public Works – Engineering Division

### MEMO

**TO:** Utilities Committee

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

**DATE:** February 6, 2018

**RE:** A Resolution authorizing the Department of Public Works to enter a Municipal Flood Control Grant agreement with the Wisconsin Department of Natural Resources for construction of the Leona Street Stormwater Pond.

---

The Department of Public Works intends to apply for a Municipal Flood Control Grant with Wisconsin Department of Natural Resources for the Leona Street Stormwater Pond Construction in March, 2018. WDNR requires the grant application to be accompanied by the following resolution:

A RESOLUTION authorizing the submittal of a state grant application by the City of Appleton and the subsequent appropriation of City funds for a Municipal Flood Control Grant project for the Leona Street Detention Pond.

WHEREAS the City of Appleton is qualified, willing and able to carry out all activities described in the state grant application; and,

WHEREAS in this action the City of Appleton City Council has declared its intent to conduct the Municipal Flood Control Grant project described in the application; and,

WHEREAS the City of Appleton will allow employees from the Department of Natural Resources access to inspect grant project sites; and,

WHEREAS the City of Appleton will maintain records documenting all expenditures made during the Municipal Flood Control Grant project; and,

WHEREAS the City of Appleton will submit a final report to the Department which describes the Leona Street Detention Pond project activities, achievements and data collected, and documentation of the project costs.

IT IS THEREFORE RESOLVED THAT:

The City of Appleton City Council requests the funds and assistance available from the Wisconsin Department of Natural Resources under the Municipal Flood Control Grant Program and will comply with state rules for the program, and,

HEREBY AUTHORIZES the authorized representative, the Director of Public Works, to act on behalf of the City to submit an application to the State of Wisconsin for financial aid for Municipal Flood Control protection purposes, sign documents, and take necessary action to undertake, direct, and complete an approved flood control project.

Adopted this day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_

By a vote of : \_\_\_\_\_ in favor, \_\_\_\_\_ against, and \_\_\_\_\_ abstain

BY: \_\_\_\_\_ (*secretary/clerk*) of

City of Appleton



## Department of Public Works – Engineering Division

### MEMO

**TO:** Utilities Committee

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

**DATE:** February 6, 2018

**RE:** A Resolution authorizing the Department of Public Works to enter an Urban Nonpoint Source & Storm Water Management Program Grant agreement with the Wisconsin Department of Natural Resources for construction of the Leona Street Stormwater Pond.

---

The Department of Public Works intends to apply for a UNPS&SW with Wisconsin Department of Natural Resources for the Leona Street Stormwater Pond Construction in March, 2018. WDNR requires the grant application to be accompanied by the following resolution:

A RESOLUTION authorizing the submittal of a state grant application by the City of Appleton and the subsequent appropriation of City funds for an Urban Nonpoint Source & Storm Water Management Program – Construction Grant (UNPS&SW Grant), as administered by the Wisconsin Department of Natural Resources for the Leona Street Storm Water Pollution Control project.

WHEREAS the City of Appleton is qualified, willing and able to carry out all activities described in the state grant application; and,

WHEREAS in this action the City of Appleton City Council has declared its intent to conduct the UNPS&SW Grant project described in the application; and,

WHEREAS the City of Appleton will allow employees from the Department of Natural Resources access to inspect grant project sites; and,

WHEREAS the City of Appleton will maintain records documenting all expenditures made during the UNPS&SW Grant project; and,

WHEREAS the City of Appleton will submit a final report to the Department which describes the Leona Street Storm Water Pollution Control project activities, achievements and data collected, and documentation of the project costs.

IT IS THEREFORE RESOLVED THAT:

The City of Appleton City Council requests the funds and assistance available from the Wisconsin Department of Natural Resources under the UNPS&SW Grant Program and will comply with state rules for the program, and,

HEREBY AUTHORIZES the authorized representative, the Director of Public Works, to act on behalf of the City to submit an application to the State of Wisconsin for financial aid for stormwater pollution control purposes, sign documents, and take necessary action to undertake, direct, and complete an approved pollution control control project.

Adopted this day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_

By a vote of : \_\_\_\_\_ in favor, \_\_\_\_\_ against, and \_\_\_\_\_ abstain

BY: \_\_\_\_\_ (*secretary/clerk*) of

City of Appleton.



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

Information Technology Department  
100 N. Appleton Street  
Appleton, WI 54911

## MEMO

To: Alderperson Konetzke and Members of the HR / IT Committee  
From: Dean J. Fox, Information Technology Director  
Date: 2/6/18

Re: Request to award Presidio the contract to purchase and implement a NetApp Storage system, backup equipment and software and disaster recovery application. The amount requested is \$500,000 for the project.

---

The CIP budget of \$500,000 includes funding to replace the Storage Area Network (SAN), backup system and implement a secondary disaster system.

An RFP went out in late November for a new SAN / DR system to replace the existing EMC SAN, which is now 7 years old.

The responses were as follows:

- CoreBTS: Score = 78.5/100 \$496,683
- IT Pros: Score = 79.5/100 \$499,898
- HBS: Score = 83/100 \$512,505
- Capital – Data: Score = 89/100 \$458,672
- **Presidio: Score = 89/100 \$498,715**

In addition to the cost of all hardware, software and implementation, I requested all costs include 5 years of support, which is included in the above pricing.

I request your consideration and approval of a contract with Presidio for the NetApp SAN/DR solution proposed. After considerable review, and multiple follow up questions, it has been determined due to the inclusive nature of the NetApp solution, the amount of space included in the proposal, and the complete software package with it, that the Presidio response is the best solution for the next 7 years for the City of Appleton.

If you have any questions regarding this recommendation, please contact Dean Fox.

## MEMO

**TO:** Human Resources Committee  
Finance Committee  
Municipal Services Committee

**FROM:** Nate Loper, Deputy Director of Public Works - Operations

**DATE:** January 17, 2018

**SUBJECT:** Changes to the Department of Public Works Table of Organization – Operations Division

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The Department of Public Works is proposing to modify the Operations Division Table of Organization by reclassifying three (3) positions in our Operations Pool. These positions are currently vacant and the new positions will be filled using our standard, competitive hiring process.

| <u>Current FTE</u> |             | <u>Proposed FTE</u> |             |
|--------------------|-------------|---------------------|-------------|
| Laborer            | 6.5         | Laborer             | 5.5         |
| Operator I         | 29          | Operator I          | 28          |
| Operator II        | <u>24</u>   | Operator II         | <u>26</u>   |
| <b>Total</b>       | <b>59.5</b> | <b>Total</b>        | <b>59.5</b> |

By making these changes we expect to improve employee retention and attraction rates by paying employees the appropriate wage for the work they are performing and by providing more opportunities for future career advancement within the department. We also feel these changes are consistent with the City's Strategic Plan by "responsibly delivering excellent services" (Key Strategy #1) and "recognizing and growing everyone's talents" (Key Strategy # 3).

### PROPOSED CHANGES

#### **Sanitation Operator I to Operator II**

The employee in this position primarily operates a highly specialized, industrial wood chipper to grind wood material, yard waste and leaves. They are also required to perform most of the maintenance on this machine and therefore are required to have a strong mechanical background. There are also many risks associated with the operation of a large chipper which range from severe personal injury to very expensive mechanical repairs if the machine is not operated properly. In the winter months they are also expected to operate heavy equipment

for plowing operations which is a function of the Operator II position. On average, this Operator I performs Op II duties 70% of the year. The cost to implement this change is expected to be \$9,173.

#### **Laborer to Sanitation Operator I**

The employee in this position works alongside the Operator I's and performs the same tasks as them for the majority or entirety each day. They drive overflow trucks and automated garbage trucks, pick bulky overflow, plow snow and perform all other work associated with an Operator I classification. On average, this Laborer performs Op I duties 75% of the year. The cost to implement this change is expected to be \$3,474.

#### **Street Operator I to Operator II**

This employee in this position works alongside the Operator II's for the entire construction season (7 months each year). They form a crew that does all of the City concrete and mason work. Their tasks include forming, pouring and finishing concrete panels, repairing or replacing inlets and manhole sections, repairing curb damage, asphalt paving and various other street maintenance related tasks. In the winter months they are also expected to operate heavy equipment (loaders, graders, etc.) for plowing operations which is also a function of an Operator II position. On average, this Operator I performs Op II duties 70% of the year. The cost to implement this change is expected to be \$9,173.

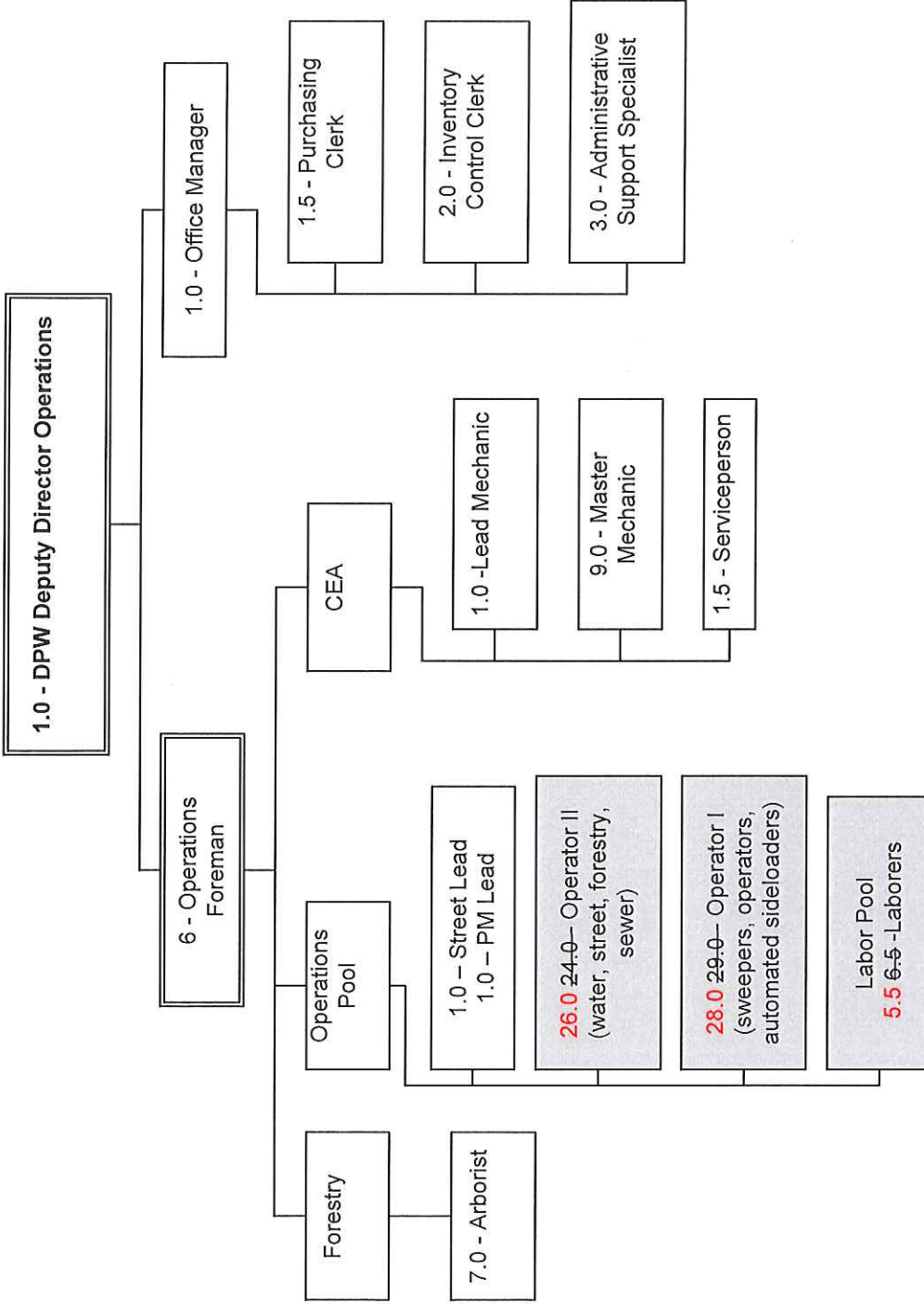
#### **Funding**

The increased salary expenses for these changes will be offset by utilizing unused 2018 salary dollars that have accrued while filling several vacant positions from recent DPW retirements. Any resulting future salary increases will be subject to future departmental budget requests.

These cost projections take into account the maximum impact of the proposed changes. We anticipate the initial implementation cost to be much less (less than 1/2) based on actual wages of the employees that vacated these positions and the wages of potential promotable employees.

Attachment: Table of Organization

C: Paula Vandehey, Public Works Director  
Tony Saucerman, Finance Director  
Sandy Matz, Human Resources Director



TO: Kurt Eggebrecht, Health Officer City of Appleton  
FROM: Patti Coenen, Owner, Fox River House  
RE: Noise Variance

January 23, 2018

Dear Kurt,

I am requesting the following weekend dates for a noise variance for the Fox River House beer garden. Times are from 7pm-11pm unless otherwise noted.

May 25, 26

June 1, 2, 8, 9, 15, 16, 22, 23, 29, 30

July 6, 7, 13, 14, 20, 21, 27, 28

Mile of Music: August 2, 3, 4 11am-11pm, August 5<sup>th</sup> 11am-9pm

August 10, 11, 17, 18, 24, 25, 31

September 1, 7, 8, 14, 15, 21, 22, 28, 29

Last year as promised, I monitored sound levels with an app on my iPhone and iPad as recommended by the city's Health Officer, Kurt Eggebrecht. As suggested by Kurt I kept records of the average levels of each band, taken from the same spot. We had one band that we had to ask to turn down the volume because the reading was higher than the rest. Of the 42 days approved by the Board of Health and Council, we had music on 30 days with 12 rain days.

There has been an amazing amount of research done to prove the benefits of music on the human brain. Listening to music can create peak emotions, which increase the amount of dopamine, a specific neurotransmitter that is produced in the brain and helps control the brain's reward and pleasure centers.

Tufts University professor and author, Ani Patel says "the great emotional power of music may be because it doesn't just activate one emotion system in the brain, it seems to activate almost every single emotion system at the same time in ways that very few other things can."

Appleton's central business district is a vibrant and growing area, the most recent addition, Fox Cities Exhibition Center and a recently announced new U.S. Venture headquarters. Attracting an educated and talented workforce also means offering a large variety of activities and amenities to also retain that workforce. Broadway shows, wonderful restaurants, shopping, art, museums, farmer's market, festivals and live music.

Thank you again for your consideration in this matter, as always, I greatly appreciate it.

Regards,

Patti

---

**From:** Kurt Eggebrecht  
**Sent:** Tuesday, February 06, 2018 8:33 AM  
**To:** B Schaff  
**Cc:** lauxie3@tds.net; Patti Coenen; rattray.kirk@yahoo.com; Melissa L. Suttner  
**Subject:** RE: Fox River House's Request for Noise Variance

Thank you for your e-mail. This noise variance request for Fox River House is scheduled for the February Board of Health meeting. We will meet February 14<sup>th</sup> at 7am in room 6A of the City center located at 100 North Appleton Street.

I will include your email in the Board's packet of materials.

Thanks,  
Kurt

Kurt Eggebrecht  
Health Officer  
Appleton Health Department  
920-832-6429  
[www.appleton.org](http://www.appleton.org)



Find us on  
**Facebook**

Watch us on



---

**From:** B Schaff [mailto:betschaff@yahoo.com]  
**Sent:** Monday, February 05, 2018 4:31 PM  
**To:** Kurt Eggebrecht <Kurt.Eggebrecht@Appleton.org>  
**Cc:** lauxie3@tds.net; Patti Coenen <District11@Appleton.org>; rattray.kirk@yahoo.com  
**Subject:** Fox River House's Request for Noise Variance

Good Afternoon Kurt,

Our neighbors recently shared a copy of Fox River House's request for a noise variance. We are writing to ask that you let the Board of Health know we are opposed to a "Conditional Variance" being issued to the Fox River House for the dates specified, as we have learned (see our previous e-mail exchange below on the topic) that this type of variance gives the bar the ability to play music as loud as they wish, making our requests to turn down the music irrelevant. Although Ms. Coenen's correspondence does not indicate the type of variance being sought, in reviewing the Appleton Municipal Code, Sec. 12-83 Variances - we would respectfully request the Board of Health consider issuing a "Special Variance." This would require the Fox River House to keep the noise level to the lowest practical level and include in the application the *steps to be taken to minimize noise and name of responsible person who will be present*. That way when the noise gets too loud that we cannot watch TV, despite making several calls to no avail, we would have the option to call the police to get the volume turned down. Per your advice, we contacted the Fox River House on several occasions this past summer, trying to be good neighbors; but unfortunately, that relationship has not been reciprocated.



Additionally, I would ask the Board to review sub (b) of the Municipal Code on Conditional Variances, to verify whether this request meets the requirements. According to (1) under this section

*It may not be technically or economically feasible for certain commercial or industrial sources of sound to comply with the standard set forth herein. Therefore, the Board of Health may grant variances from this section if it finds that strict compliance is unreasonable because:*

- a. Conditions are beyond the control of the person requesting such variance.*
- b. Special circumstances exist which would render strict compliance impractical.*
- c. Strict compliance would result in substantial curtailment or closing down of a business, plant, operation or the like*
- d. Control technology is unavailable or available only at a prohibitive cost.*
- e. No other alternative facility or method is available.*

Based on last year's discussion at the Board of Health meeting on this topic, Ms. Coenen has control over the bands she decides to contract with to play, as well as the ability to monitor sound levels through an app, which she mentioned in her request. Additionally, Fox River House is a year-round business, so its survival is not solely dependent on bands playing on the requested dates. With that said, we are not opposed to the bands, we just need to figure out a balance and unfortunately this past summer we were frustrated by the bar's unwillingness to respond to requests to turn down the music. We did not call every night there was a band, only the nights the music was so loud our kids could not sleep and we could not hear the TV. Therefore, we respectfully ask that regardless of the Board's decision, it include some conditions this year so Ms. Coenen has some incentive to work with us/listen to our concerns.

I would like to thank you and the Board of Health for your time and consideration of this request. Please notify us once a date has been set to review this topic as we would like to attend.

Sincerely,

Elizabeth Schaff and Kirk Rattray  
523 West 8<sup>th</sup> Street  
Appleton, WI

#### **E-mails Referenced Above Over Issue This Summer:**

B Schaff <betschaff@yahoo.com>

To

B Schaff

05/17/17 at 9:39 AM

Good Morning Kurt,

I just wanted to follow-up with you on the meeting from last week. I noticed in the Common Council agenda that the Board of Health minutes state the variance was recommended for approval and that the "Board provided suggestions on how the owner can minimize neighborhood disputes in regards to loud music". So does that mean she needs to follow the suggestions and get a decibel reader to monitor the bands and have them turn down the volume if it gets too loud? Also to clarify, the variance that was approved only allows the establishment to operate at the daytime noise levels outlined in the ordinance - correct? Finally, could we get the contact information for the individual that will be on sight when the bands are playing?

Sorry for all of the questions, I just want to make sure I am clear on things.  
Thank you!

Elizabeth



Reply Reply to All Forward More  
B Schaff <betschaff@yahoo.com>

To  
Kurt Eggebrecht  
06/28/17 at 8:54 AM  
Hi Kurt,

I just wanted to follow-up with you on Fox River House's approved noise variance. As mentioned in my earlier e-mail, I had some additional questions on expectations based on the committee's discussion and clarification of the minutes. Since the variance has been approved, we have had to call the establishment on a couple of occasions, the most recent being this past weekend. On Saturday the band started around 8pm and was very loud. I called and asked if they could check the decibel reading and have the band turn down the volume. I was told they would. There was no noticeable change in volume, so I called back 20 minutes later. The person I spoke to said that they checked the levels and the band had turned it down several decibels – so they said they would see what they could do – which nothing changed. Our neighbor/my brother called the non-emergency number because he knew we tried twice and was frustrated with the noise. He spoke to Katelyn at the Appleton Police Department. She said Officer Wallace went over to the bar and was told that it had a noise variance and the band could play as loud as they wanted until 11pm. Because of the noise variance, the Police Department said they could not do anything about the noise unless we had documentation that said otherwise. I guess at this point, I am very confused – I thought the variance that was discussed at the meeting was to extend the band playing time at daytime noise levels until 11pm. Does the variance really give the bar permission to have the band play as loud as they want until 11pm? If that is the case, did the board realize that when they approved the noise variance? Also, besides the e-mail request, is there any other documentation on the variance?

Any clarity you can provide would be appreciated. Thank you for your time.

Sincerely,  
Elizabeth

Reply Reply to All Forward More  
Kurt Eggebrecht <Kurt.Eggebrecht@Appleton.org>

To  
B Schaff  
CC  
Patti Coenen  
06/28/17 at 1:36 PM  
Elizabeth,

Thanks for reaching out and sharing your experience this past Saturday night. The noise variance that the Board of Health approved is just that, a variance to the current levels of noise that are permitted in the City of Appleton, meaning that they can exceed the level in this case the night time level based on the hours requested.

I am certain the Board of Health knew what they were voting on as they have approved many such requests over their years of service.

There was/is no other documentation than what was shared with the Board of Health.

I encourage you to continue to inform the establishment when certain bands are loud as this way they are made aware as well. I will cc the establishment owner Patty Coenen as well so she becomes aware of your frustration last Saturday.

Thank you-  
Kurt

Kurt Eggebrecht  
Health Officer  
Appleton Health Department

920-832-6429

[www.appleton.org](http://www.appleton.org)

Reply Reply to All Forward More  
B Schaff <betschaff@yahoo.com>

To

Kurt Eggebrecht

CC

Patti Coenen

06/28/17 at 4:09 PM

Good Afternoon Kurt,

Thanks for the clarification on that piece. I guess in looking at the city code (Sec 12-83) I was unclear what type of variance was granted - it sounds like it must have been the conditional variance. In terms of the board's discussion on monitoring the decimal level and having a point of contact for neighbors to call so steps can be taken to reduce the noise - does the bar still need to comply with this or is that a moot point because the variance was approved?

Thanks, again, for your time.

Elizabeth

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**From:** Kurt Eggebrecht  
**Sent:** Friday, February 09, 2018 10:01 AM  
**To:** Melissa L. Suttner  
**Subject:** FW: Fox River House Special Community Event Variance

**From:** E Laux [mailto:lauxie3@tds.net]  
**Sent:** Thursday, February 08, 2018 10:43 PM  
**To:** Kurt Eggebrecht <Kurt.Eggebrecht@Appleton.org>; B Schaff <betschaff@yahoo.com>; rattray kirk <rattray.kirk@yahoo.com>; Linda muldoon <coventryglass@usa.net>  
**Cc:** William Siebers <District1@Appleton.org>; Vered Meltzer <District2@Appleton.org>; Curt Konetzke <District3@Appleton.org>; Joe Martin <District4@Appleton.org>; Ed Baranowski <District5@Appleton.org>; Greg Dannecker <District6@Appleton.org>; Matthew Reed <District8@Appleton.org>; Bob Baker <District9@Appleton.org>; Kathleen Plank <District7@Appleton.org>; Christine Williams <District10@Appleton.org>; Patti Coenen <District11@Appleton.org>; Cathy Spears <District12@Appleton.org>; Kyle Lobner <District13@Appleton.org>; Christopher Croatt <District14@Appleton.org>; Keir Dvorachek <District15@Appleton.org>; Mayor <Mayor@Appleton.org>  
**Subject:** Fox River House Special Community Event Variance

**To:** Kurt Eggebrecht, Health Officer - City of Appleton

**CC:** Members of the Appleton Health and Safety Board  
Members of the Appleton City Council  
Mayor Timothy Hanna – Appleton

**From:** Elizabeth Laux – 303 S. Walnut Street, Appleton, WI 54914

**RE:** Noise Variance – 2018 Music Season for the Fox River House Bar

February 1, 2018

Dear Kurt,

This letter is in response to the request issued by Patti Coenen, Proprietor of the Fox River House at 211 S. Walnut Street, Appleton, WI 54911 January 23, 2018 for an Appleton Municipal Code Sec 12-83 (2) Special Community Event variance. On June 2, 2017 you told me this is the type of variance Ms. Coenen applied for in 2017; I am assuming it will be the same for the 2018 season.

I am pleased Ms. Coenen's is making improvements to her business. She said she has spent over \$20,000 in updating the apartment above the Fox River House. When you are a property owner, this type of maintenance is considered upkeep and, in Ms. Coenen's case, an investment to make money from a rental at a property that is already utilized as a business. My mother has made upgrades and updates to 303 S. Walnut and has paid out

easily over \$100,000.00 in money and sweat equity over the years. My mother doesn't have an additional income from the property to make improvements; I am helping because this is my home, too. However, we go into debt when we need to update our property; for example, updating the electrical or to put on a new roof cost about \$14,000 and \$15,000 respectively.

Ms. Coenen stated there are many neglected rental units in the Historic Third Ward neighborhood. I only know of one house in the neighborhood that is unoccupied because it's unsuitable to live in. The house is at 403 S. Walnut Street. It's not occupied because the current owner is in the midst of renovations. I have often walked the streets of my neighborhood, to exercise or walk the dog, and even the half-way houses and other government buildings don't appear to be in blight.

I am disappointed that Ms. Coenen is casting general aspersions about our neighborhood as part of her appeal. She does, after all, live in the same neighborhood her business is in; though she lives 3 1/2 blocks from the music venue. The apartment above the Fox River House bar was rented to a gentleman before he decided to move. If she didn't consider the apartment inhabitable, why did Ms. Coenen wait for him to move to do these renovations? She took over the building in 2009. Or, why not make that second floor into a music venue when he did move? The area of the second floor is essentially the same size as the yard where the music currently takes place. By using the second floor, she could have live music all year round and not worry about having the bands in winter in a cramped space in the bar area.

My ability to live peacefully in my home is hindered by the music played by bands Ms. Coenen hires to perform in her outdoor venue. This is not because of the music itself, but because of the volume of the bands. It is very stressful. I will not speak to all we've gone through since 2011—except for the suggestion of tearing down the house at 303 S. Walnut Street or worse by one of her patrons. Also, my mother, myself and our neighbor, who has since moved away, all had flat tires on the same day for some reason. In fact, I had two flat tires that day; both driver-side tires on my car had nails pushed through the sidewalls. My mother's and my cars were in our garage. The neighbor's car sat outside in her driveway. I still fear repercussions of objecting to the noise at Fox River House and wonder if our home will be vandalized or destroyed; even accidentally.

When attending the Health Board meeting on May 10, 2017, Doctor Douglas Nelson asked Ms. Coenen if she was agreeable to signing contracts with the bands she hires and informing the musicians if they go over a certain decibel level they would be asked to leave, never to be asked back again, and not be paid. Ms. Coenen immediately agreed. She also agreed to purchase a decibel reader so bands could be monitored. She stated she would contact the Appleton Police Department to see what brand of decibel reader they use. When my mother mentioned this during a future discussion, it was insisted that none of said agreements were discussed.

I went to the Appleton.org page and looked for the recorded version of that day's meeting. I found none, and no meeting minutes posted on the page. It seems all the momentum

during that May 10, 2017 meeting was simply to placate people in the neighborhood temporarily and for the activity at the Fox River House to continue as in years' past. Instead of purchasing a decibel reader, Ms. Coenen, instead, used an app on her iPhone and iPad to monitor the music; even after she had objected to my using a decibel app on my Android phone in the past as proof of how loud the music was. None of the conditions promised by Ms. Coenen were met.

My mother ordered the open records from the Appleton Police Department (APD), asking for all the noise complaints that came in from people during summer of 2017 regarding Fox River House. There was only one complaint listed about noise at the bar. It was a formal complaint, and it was made by my mother. I know I made several calls last summer to the APD to make a statement about the noise. I know other neighbors called. Even a lady outside of our neighborhood, to the north, called. We had no idea we needed to directly express that our calls were formal complaints to be officially recognized. The list we received also included formal complaints about public urination, a couple disturbances, a few dealings with theft, and a suspicious situation. We have also found vomit and discarded underwear on the sidewalk in front of the building on occasion. In mid-July of 2017, I spoke with an Appleton alderman regarding this matter, and he called the Appleton Police Department to check about noise complaints for the Fox River House. As an official, he was informed there were several calls made about the noise at the Fox River House; both formal and non-formal.

Other factors that will affect the neighborhood are the demolition of the veterans' service building, and the expansion at the Justice Center and Outagamie Court House. With the razing of the veterans' service building at 227 S. Walnut Street, there will be no more buffer at all between the beer garden bands and the neighborhood; especially for 303 S. Walnut Street. The outcropping of the new addition to the court house campus will amplify the noise played by hired bands, more than in past years, bouncing it back to the neighborhood. I say noise because that's what it is by the time it reaches the neighborhood.

Residents in this neighborhood shouldn't have to be concerned about the months of May through September while it's still February. I shouldn't have to be taking time to write this letter. I should be working on things I need to do for the non-profits I volunteer for. But, for the past several years, neighborhood voices have been disregarded, and May is only 3 months away. Even writing this letter has been stressful. Each year it gets worse.

Ms. Coenen's requests for a "special noise variance" are not for special occasions; not a once-per-year event like the Mile of Music. She's requesting nineteen (19) weekends in a row. And as for the Mile of Music, she's requesting 12 and 13 hours of music for Thursday, Friday, Saturday and 10 hours on Sunday. That's 48 hours of music and a great deal of stress. If it was just Mile of Music, I could understand her request being a "special occasion", but she's requesting 40 separate days. Technically, perhaps legally, her request doesn't fall under Appleton Municipal Code Sec 12-83 (2) *Special Community Event*

variance because, by definition, a "*Special Community Event*" would be an event put on by the community; not a private business.

Since 2011, Ms. Coenen has proven she won't control the noise level of the bands she hires. If she is granted a variance for 2018, I expect her to invest in a proper sound barrier to protect the well-being of those in the neighborhood--not just a tarp as she has attempted in the past. So far, in this distressing situation, all has been one-sided; one-person benefiting at the expenses of others living in the neighborhood. And the city has allowed this to go on for years, preventing the APD from taking suitable action. The Third Ward is one of Appleton's oldest neighborhoods, it has been interesting watching it change a lot over the years. And, it is a part of the downtown area, coexisting peacefully up until 2011.

If Ms. Coenen feels placing a sound barrier is not acceptable, I request the Health and Safety Board and the Appleton City Council deny all dates she is requesting for a variance except when Appleton community events are taking place (e.g. Mile of Music and Octoberfest). The fact that her actions are bringing harm to even one person in the neighborhood should prevent the variance from being granted by the Health and Safety Board and the Appleton City Council. Stress is harmful and the residents of the Historic Third Ward are not represented faithfully by their alderperson, Patty Coenen.

At this point, I have three choices: (1) I can move. I don't want to move. I love my home. (2) I can hire a lawyer. I believe I have a case. Or, (3) I can run for City Council. I shouldn't have to run for office to have my voice heard, however, I am willing to become more involved in my city's political processes in-depth.

Sincerely,

Elizabeth Laux

--  
Live Love Laugh

**19-18**

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

(Municipal Services Committee 02-07-2018)

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

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

Parking be prohibited on the west side of Rankin Street from Alton Street to a point 150 feet south of Alton Street.

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

**20-18**

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

(Municipal Services Committee 02-07-2018)

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

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

Parking be prohibited on the north side of Rail Road from Kensington Drive to a point 425 feet west of Kensington 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 Traffic Engineer is authorized and directed to make the necessary changes in the Parking District Map in accordance with this Ordinance.

**21-18**

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

(Municipal Services Committee 02-07-2018)

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

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

**INSTALL STOP SIGNS ON:**

Locust Street at Fifth Street

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

**22-18**

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

(Municipal Services Committee 02-07-2018)

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

**Section 1:** That Section 19-5 of Chapter 19 of the Municipal Code of the City of Appleton,



relating to the erection of official traffic signs and signals, is hereby created as follows:

**INSTALL STOP SIGNS ON:**

Madison Street at McKinley Street

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

**23-18**

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

(Municipal Services Committee 02-07-2018)

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

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

Parking be prohibited on the west side of Rankin Street from College Avenue to Alton Street.

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

**24-18**

**AN ORDINANCE AMENDING SECTION 19-86 OF CHAPTER 19 OF THE MUNICIPAL**

**CODE OF THE CITY OF APPLETON, RELATING TO PARKING RESTRICTIONS.**  
(Municipal Services Committee 02-07-2018)

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

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

Parking be prohibited on the north side of South Street from South Court a point 55 feet west of South Court.

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

**25-18**

**AN ORDINANCE REPEALING AND RECREATING CHAPTER 6 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO FIRE PREVENTION AND PROTECTION.**

(Safety and Licensing Committee – 02-07-2018)

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

**Section 1:** That Chapter 6 of the Municipal Code of the City of Appleton, relating to fire prevention and protection, is hereby repealed and recreated as follows:

**ARTICLE I. IN GENERAL**

**Sec. 6-1. Intent of chapter.**

It is the intent of this chapter to prescribe regulations consistent with the nationally recognized standard practice for the safeguarding, to a reasonable degree, of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, from conditions hazardous to life and property in the use or occupancy of buildings or premises, and the adequacy of exit systems.

## **Sec. 6-2. Fire equipment.**

(a) No person shall molest, tamper with, damage or otherwise disturb any apparatus, equipment or appurtenance belonging to or under the supervision and control of the Fire Department without authority from the Chief or his/her authorized representative.

(b) No person shall remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of this code, except for the purpose of extinguishing fires, training purposes, recharging or making necessary repairs or when permitted by the Fire Department. Whenever a fire appliance is removed as permitted herein, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. No person shall use or operate any hydrant or other valves installed on any water system intended for use by the Fire Chief for fire suppression purpose, and which is accessible to any public highway, alley or private way open to or generally used by the public, unless such person first secures permission from the Fire Department. This section does not apply to the use of a hydrant or other valves by a person employed by and authorized to make such use by the Water Department which supplies water to such hydrants or other valves.

(c) No person shall place or keep any post, fence, vehicle, growth, trash, storage or other material near any fire hydrant, Fire Department connection or fire protection system control valve that would prevent such equipment or hydrant from being immediately discernible or in any other manner deter or hinder the Fire Department from gaining immediate access to the equipment or hydrant. A minimum three- (3-) foot clear space shall be maintained around the circumference of the fire hydrants except as otherwise required or approved by the Fire Chief.

(d) Where on-site fire hydrants are required on private property, the City shall annually inspect, flush and, if necessary, paint said hydrants for the fee per hydrant on file with the City Clerk's Office. The owner shall be notified of any repairs or maintenance necessary, and it shall be the owner's responsibility to see that any repair or maintenance is performed in accordance with the National Fire Protection Association Standard 25, the City Water Utility's standard operating procedures and the American Water Works Standards for fire hydrant maintenance. The property owner or agent must call between April 1 and October 1 of each year to schedule the annual flush and inspection.

(e) The property owner or agent shall keep and maintain records indicating when the hydrants are flushed, painted and maintained. These records shall be made available to the City upon request.

## **Sec. 6-3. Enforcement by Fire Chief.**

The Fire Chief shall be responsible for fire protection. This chapter shall be enforced by the Fire Chief, designated by the City and the State as the "authority having jurisdiction", in all matters concerning this chapter and related fire prevention activities. The Fire Chief may appoint a Fire Marshal or other designee who will act on the Chief's behalf in matters concerning fire prevention.

## **Sec. 6-4. Police assistance.**

Whenever requested to do so by the Fire Chief or his/her designee, the Chief of Police shall assign such available police officers as in his/her discretion may be necessary to assist the Fire Department in enforcing the provisions of this chapter.

#### **Sec. 6-5. Right of entry.**

(a) For purposes of this section, the authorized representative shall include all members of the Fire Prevention Program and all officers of the Fire Department.

(b) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Fire Chief or his/her authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe, the Fire Chief or his/her authorized representative may enter such building or premises at all reasonable times to inspect the building or premises or to perform any duty imposed upon the Fire Chief by this chapter.

(c) If such building or premises is occupied, the Fire Chief or authorized representative shall first present proper credentials and demand entry. If such building or premises is unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Fire Chief or his/her authorized representative, shall have recourse to every remedy provided by law to secure entry.

(d) If the owner or occupant denies entry, the Fire Chief or his/her authorized representative shall obtain a proper inspection warrant or other remedy provided by law to secure entry. No owner or occupant or any other persons having charge, care or control of any building or premises, shall fail or neglect, after proper request is made as provided herein, to promptly permit entry therein by the Fire Chief or his/her authorized representative for the purpose of inspection and examination pursuant to this chapter.

#### **Sec. 6-6. Removal of fire hazards.**

(a) Whenever an inspection by the Fire Chief reveals a fire hazard, the Fire Chief may provide a notice, in writing, upon the owner or occupant of the property giving the owner or occupant sufficient time in which to remove the hazard. If the fire hazard is not removed within the time prescribed, it shall be deemed a nuisance and the Fire Chief shall have the hazard removed by the City and the cost of removal reported to the Director of Finance and spread on the tax roll as a special charge against the property, as prescribed in §12-32 et seq.

(b) Within ninety (90) days after the removal of any flammable/combustible liquids tank, all barreled sludge or liquids must be removed from the property.

#### **Sec. 6-7. Vacation of buildings.**

(a) The Fire Chief is hereby empowered to close any building or structure, and order it vacated wherein violations of any regulations of this chapter are found and not abated within a

reasonable time stipulated by him.

(b) Where the public is exposed to immediate danger, the Fire Chief is hereby empowered and directed to order the immediate closing and vacating of the building or structure.

#### **Sec. 6-8. Investigation of fires.**

The Fire Department shall promptly investigate the origin, cause, and circumstances of all fires occurring in the jurisdiction of the City. If it appears that the cause of the fire may be the result of a criminal act, the Fire Department shall inform the Police Department and seek their assistance in determining the origin and cause of the fire.

#### **Sec. 6-9. Inspections generally.**

The Fire Chief or his/her designee shall provide for the inspection of every public building and place of employment in accordance with W.S.A. §101.14 and shall comply with the provisions thereof. The Fire Chief shall, on a time schedule to be determined by the Common Council, report information regarding these inspections. Violations identified during inspections shall be recorded and kept on file in accordance with W.S.A. §101.14. Owners or occupants who do not show for a scheduled inspection appointment may be charged a fee. Repeated inspections or re-inspections resulting from continued non-compliance may subject an occupancy or property to a re-inspection fee and/or remedies as outlined in §6-75 "Repeat violation rule".

#### **Sec. 6-10. Fire inspection required before occupancy.**

No person shall occupy or change the occupancy of a building or structure covered under Wisconsin Administrative Code, SPS Chapters 350-365 the Wisconsin Commercial Building Code, or the locally adopted International Fire Code used by or for public assembly, industrial, institutional, multifamily, office, or mercantile purposes until such building or structure has been inspected by the Fire Department.

#### **Sec. 6-11. Burning trash, rubbish, garbage, yard waste, etc.**

(a) No person shall build, maintain or allow to be operated or maintained on a premises controlled by him/her, any waste burner, refuse burner, trash burner or other similar appliance unless such device is permitted with the approval of the Inspections Supervisor and the Fire Chief, or his/her designee.

(b) No person shall operate an outside incinerator, burn garbage, or leaves within the City.

#### **Sec. 6-12. Open outdoor fires, outdoor fireplaces, cooking fires and barbecue grills, kettles and outdoor hibachis.**

(a) No open outdoor fires, including fires confined within outdoor fireplaces and outdoor

cooking fires, with the exception of fires fueled by natural gas, propane or charcoal in commercially manufactured appliances or a non-commercially manufactured appliance approved by the Fire Chief or his/her designee, shall be started by any person unless a permit is first obtained from the Fire Department. No permit shall be granted for open burning for multifamily occupancies without separate private yards for each tenant, nor without the property owner's permission, in a public right-of-way, alley or other public thoroughfare.

- (1) Daily permits are available for bonfires, brush burns, wildland management burns, outdoor fireplaces and cooking fires.
  - (2) Annual permits are available for recreational fires in outdoor fireplace appliances. (January 1 through December 31).
  - (3) Annual and single day permits are valid 6:00 a.m. to 10:00 p.m. Sunday through Thursday, 6:00 a.m. to 12:00 a.m. Friday, Saturday, and any day/evening preceding a federal holiday.
  - (4) No permit will be issued for any fire within ten (10) feet of any building, structure, fence, combustible material or property line.
  - (5) Only those fuels and appliances approved by the Fire Chief or his/her designee shall be used.
  - (6) Burning is to be attended at all times by a person at least eighteen (18) years of age, with an approved means of extinguishing the fire available for use at the location of the fire.
- (b) Barbecue grills, kettles, outdoor hibachis.
- (1) Charcoal burners and other open-flame devices shall not be operated on combustible balconies or within ten (10) feet of combustible construction in all dwellings. Exceptions:
    - a. Single family dwellings.
    - b. Permanently piped natural gas fired barbecue grills, where dwellings, balconies, and decks are protected by automatic sprinkler system.
  - (2) Cylinders having water capacities greater than 2½ lb. (1 kg) [nominal 1 lb. (0.5 kg) LP-Gas capacity] shall not be located on balconies above the first floor that are attached to a multiple family dwelling of three (3) or more living units.
- (c) No person shall install, use or maintain a woodfire furnace, stove or boiler that is not located within a building intended for habitation by humans within the City limits. This prohibition shall apply to furnaces, stoves or boilers installed after the effective date of this ordinance.

(d) The Fire Chief or his/her designee shall have the authority to prohibit any and all open burning when atmospheric conditions or local circumstances make such fire hazardous. No burning will be allowed if wind conditions will cause smoke, embers or other burning materials to be carried towards any building or other combustible material, nor anytime the wind is in excess of nine miles per hour (9 m.p.h.) as measured by the Outagamie County Emergency Communication Center.

#### **Sec. 6-13. Careless smoking prohibited.**

(a) It is unlawful for any person, by reason of careless, willful or wanton conduct in smoking or in the use of lighters or matches in smoking to set fire to any bedding, carpet, curtains, draperies, furniture, household equipment or other goods or chattels or to any building.

(b) A plainly printed notice of the provisions of this section shall be posted in a conspicuous place in every sleeping room of every place renting rooms for the accommodations of the public. Such printed notices shall also be posted in any place of public assembly where smoking is permitted.

#### **Sec. 6-14. Lock box.**

(a) Every newly constructed building, except one- and two-unit family dwellings or additions to an existing building previously without a lock box, shall be equipped with a lock box consistent with the specifications set forth in (c) within this section.

(b) When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life saving or firefighting purposes, the Fire Chief or his/her designee may require a lock box to be installed consistent with the specifications set forth in (c) within this section.

(c) The lock box shall be a type approved by the Fire Department and shall contain keys to gain necessary access as required by the Fire Department. The lock box shall be installed by the property owner at a location approved by the Fire Department. The lock box shall be installed within an appropriate time, as determined by the Fire Chief or his/ her designee.

#### **Sec. 6-15. Fire Department signs.**

It shall be illegal for anyone to remove, mutilate or destroy any legally required sign posted by the Fire Department or required sign to be posted by the owner, manager or operator of any occupancy open to the public.

#### **Sec. 6-16. Fire alarms.**

(a) Every public building, dwelling or place of employment containing either a manual, sprinkler activated or fire detector activated alarm system shall comply with this section.

(b) New or upgraded fire alarm systems at large buildings or buildings with multiple occupancies shall provide outside strobe lights indicating the occupancy or area of fire alarm activation and if applicable, the location of the Fire Department connection. The location of these

strobe lights is to be determined by the Fire Chief or designee.

(c) The Fire Department will be contacted immediately upon activation of an alarm by on-site personnel or a monitoring agency so not to cause a delay in alarm. Any monitoring agency shall be licensed or approved by either Factory Mutual (FM) or Underwriters Laboratories (U.L.). All systems shall be maintained in operable condition as specified in the International Fire Code. If the alarm or fire sprinkler system becomes inoperative for any reason, the Fire Department shall be notified and the provisions of the International Fire Code, Section 901.7 and subsequent revisions shall apply.

(d) False alarms and fees.

- (1) Words and phrases defined in §12-121 are used in the same sense in this section unless a different definition is specifically provided.
- (2) If the Fire Department responds to a false alarm, the party responsible for the false alarm shall pay the city a fee according to the schedule of fees kept on file with the City Clerk's Office.
- (3) If the Fire Department is cancelled by the emergency communications center while responding to an alarm, the party responsible for causing the alarm may still be assessed the false alarm fee.
- (4) Any fees payable to the City which are delinquent may be assessed against the property involved as a special charge for current service, without notice, pursuant to Wisconsin Statutes Annotated §66.0627.
- (5) The party responsible or the alarm user may appeal the assessment of a false alarm fee by submitting written documentation to the Fire Chief or designee within ten (10) business days after notification of the assessment of a fee. The Chief or designee must inform the alarm user of the decision in writing. If the alarm user further contests the Chief or designee's decision, within ten (10) days of receiving the Chief or designee's decision, the alarm user may seek review by the Safety and Licensing Committee by submitting a written notification to the City Clerk's Office.

#### **Sec. 6-17. Malls.**

The mall manager or designee shall notify the Fire Department prior to any use of a mall common space for any intended use other than exiting. Examples of other uses would be trade shows, exhibitions, or public assemblies.

#### **Sec. 6-18. Violations.**

It is unlawful for any person to violate any provision of this chapter or to fail to obey any rule, regulation or order of the Fire Chief or his/her designees.



**Secs. 6-19 – 6-30. Reserved.**

## **ARTICLE II. FIRE DEPARTMENT**

### **Sec. 6-31. Generally.**

The Fire Department shall be a paid department, consisting of such officers and members as the Common Council may establish from time to time. The Department shall be charged with providing response to fires, hazardous material spills, medical emergencies, rescue of people in distress and other dangerous conditions. The Department shall also provide for fire investigation, prevention, inspection, code compliance, and other services designed to maintain fire and life safety within the community.

### **Sec. 6-32. Duties of Fire Chief.**

It shall be the duty of the Fire Chief to:

- (1) Direct the operation of the Fire Department subject to the rules and regulations which may be adopted by the Common Council or the Police and Fire Commission;
- (2) Issue and enforce such orders as in his/her judgment may be best for the protection of property and the extinguishing of fires;
- (3) Enforce all ordinances, rules and regulations of the Common Council governing the Fire Department;
- (4) Report the condition of the Fire Department at the end of each year and make further reports when ordered to do so by the Common Council or the Police and Fire Commission;
- (5) Report promptly to the Police and Fire Commission any member of the Fire Department who may have disobeyed his/her order or violated any of the laws or rules governing the Department;
- (6) Keep a record and report to the Police and Fire Commission the absence of any member of the Fire Department from fires, together with any dereliction of duty or violation of any of the rules and regulations of the Department.

In the absence or disability of the Fire Chief, the Deputy Chief shall perform his/her duties.

### **Sec. 6-33. Wearing of name tag and badge.**

The members of the Fire Department of the City, when on duty, shall wear the badge or insignia and name tag of the office on the outside of the outermost garment, conspicuously displaying the badge and name tag so the entire surface thereof may be seen, except when caution may dictate that the badge and name tag should not be exposed.

**Secs. 6-34 – 6-42. Reserved.**

### **ARTICLE III. PERMITS**

#### **Sec. 6-43. Required.**

(a) It shall be unlawful for any person to use a building or premises or engage in any activities for which a permit is required by this code, without first having obtained such permit.

(b) Permits are required for the following:

- (1) ***Floor finishing*** (required for floor finishing or surfacing operations exceeding three hundred fifty (350) square feet using Class I or Class II liquids).
- (2) ***Lumber yards*** (where more than one hundred thousand (100,000) board feet of lumber is to be stored or used inside of the facility);
- (3) ***Vehicle tire rebuilding plants*** (for any tire recapping or rebuilding operation);
- (4) ***Magnesium use*** (for the melting, casting, heat treating machining or grinding of more than ten (10) pounds of magnesium per working day);
- (5) ***Cryogenic liquids*** (for the production, storage or sale of cryogenic liquids);
- (6) ***Combustible fibers*** (for the storage and handling of combustible fibers in quantities in excess of one hundred (100) cubic feet);
- (7) ***Dust explosion hazard*** (for the operation of any grain elevator or bleacher, flour, starch or feed mill, malt house, wood flour manufacturing plant, or plant pulverizing aluminum, coal, cocoa magnesium, spices, sugar or other material producing dust which, if mixed with air in the proper portions becomes explosive and may be ignited by flame or spark);
- (8) ***Fumigation and thermal insecticidal fogging*** (this process is not to start without a permit);
- (9) ***Flammable and combustible bulk storage*** (storage in excess of fifty-five (55) gallons on permanent basis above or below ground);
- (10) ***Open burning*** (where permits are required by the State or this code, §6-13);
- (11) ***Tents, membrane structure, canopies*** (to operate or erect a tent or membrane structure or canopy in excess of two hundred (200) square feet unless it is used exclusively for camping or on the premises of a one- (1-) or two- (2-) family dwelling which is not covered under this Code);

- (12) ***Fireworks/pyrotechnic displays*** (for the discharge of any fireworks as defined by W.S.A. §167.10. Such discharge shall conform to any state law or this code and any regulations);
- (13) ***Explosives***
- a. Any person conducting blasting operations in the City shall notify the Fire Department of the time and location of the blast. Notification shall be made on proper forms provided by the State. A permit shall be obtained after notification and prior to blasting;
  - b. Any person storing explosive materials, as defined in Wisconsin Administrative Code, International Fire Code, Section 3302.1, in the city shall obtain a permit. Such explosives shall be stored in an approved manner;
- (14) ***Cellulose nitrate plastics:***
- a. All retailers, jobbers and wholesalers storing or handling more than twenty-five (25) pounds of cellulose nitrate plastics shall obtain a permit from the Fire Chief;
  - b. A permit shall be obtained from the Fire Chief for the manufacture of articles of cellulose nitrate plastics, including the use of cellulose nitrate plastics in the manufacture or assembling of other articles;
  - c. Cellulose nitrate motion picture film (a person may not store, handle, or keep on hand more than twenty-five (25) pounds without obtaining a permit. A person may not sell, lease or otherwise dispose of any cellulose nitrate film to any person not having a permit issued by the Fire Chief or his/her designee to handle, use or display the film);
- (15) ***Recyclables storage*** (any outside storage area, or warehouse used for the bulk storage of paper for sale or recycling);
- (16) ***Storage tanks***
- a. Removal of underground storage tanks (UST) or above ground storage tanks (AST) in either commercial or residential properties as required by Wisconsin Administrative Code, SPS 310;
  - b. Upgrades of underground storage tanks (UST) or above ground storage tanks (AST) flammable/combustible liquid storage systems;
- (17) Installation, storage or use of liquid petroleum gases systems with a cumulative total of one hundred twenty-five (125) gallons or larger water

capacity.

**Sec. 6-44. Temporary special permits.**

When a temporary hazardous situation is anticipated for conditions not otherwise regulated by this code, the Fire Chief is authorized, based on applicable data, to issue a temporary special permit for the duration of the hazard.

**Sec. 6-45. Application.**

Applications for permits shall be made to the Fire Chief and shall include the applicant's answers in full to inquiries set forth on such forms. Applications for permits shall be accompanied by such data as required by the Fire Chief and fees as may be required by his/her jurisdiction.

**Sec. 6-46. Fees.**

Fees shall be established for the permits, certificates, approvals and other functions performed under this code and shall be payable to the City. Such fees shall accompany each application for such permit, approval, certificate or other fee-related code provision. The fee amount for the required permits, certificates, approvals and other functions performed under this Code shall be maintained on a schedule filed with the City Clerk.

**Sec. 6-47. Issuance and posting.**

(a) The Fire Chief or his/her designee shall review all applications submitted and determine compliance with applicable provisions of this code and issue or revoke permits based on his/her findings as required.

(b) A copy of the permit shall be posted or otherwise readily accessible at each place of operation or carried by the permit holder as specified by the Fire Department.

**Sec. 6-48. Fee for failure to obtain permit.**

The fee for failure to obtain a permit required under §6-43 of this Code is triple the permit fee described in that section when a permit is obtained. Payment of any fee shall not relieve any person of the penalties that may be imposed for violation of this chapter.

**Sec. 6-49. Non-resident fees for Fire Department services.**

When the Fire Department is called upon to extinguish a vehicle fire or extricate a person, and where the subject vehicle is registered to an owner with a permanent address located outside of the Appleton city limits, the registered owner shall pay a service fee to the City, the amount of which shall be on file with the City Clerk.

**Sec. 6-50. Recovery of costs associated with technical rescue responses.**

(a) ***Technical rescue reimbursement for costs of emergency services response.*** A technical rescue response includes, but is not limited to, structural collapse, confined space, trench rescue, water rescue, ice rescue, or rope rescue. Emergency service response includes, but is not limited to, fire service, emergency medical service and law enforcement. Any person or property owner who necessitates a technical rescue response may be responsible for reimbursement to the responding agencies for the actual and necessary expenses incurred in carrying out their duties under this article. Actual and necessary expenses may include, but not be limited to, replacement of equipment, maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, and charges associated with personnel and equipment necessary for the technical rescue response.

(b) ***Appeal.*** A person or property owner has the right to appeal the assessment of charges for an emergency service response. Any person or property owner appealing the assessment of charges shall file a written objection with the Fire Chief within thirty (30) days of receiving the bill. Upon receipt of the written objection, the matter shall be placed on the Agenda for the Safety and Licensing Committee at its next regularly scheduled meeting. The Safety and Licensing Committee shall make a recommendation to the Common Council, which shall grant or deny the request.

**Secs. 6-51 – 6-55. Reserved.**

#### **ARTICLE IV. STANDARDS AND REQUIREMENTS**

##### **Sec. 6-56. Adoption of codes and standards.**

(a) The state codes listed in this section are hereby adopted by reference and made a part of the City Fire Prevention Code. For the purposes of this section, these provisions are adopted to enable the Fire Department to note any violations of such codes and to report those violations to the appropriate community service inspectors. The Fire Inspectors shall have the authority to cite such violations on fire inspections.

- (1) General Hazard on Fire Prevention, Wisconsin Administrative Code, SPS chapter 314;
- (2) General Orders on Existing Buildings, Wisconsin Administrative Code, SPS chapters 375 to 379;
- (3) Wisconsin Administrative Code, Wisconsin State Electrical Code, SPS Chapter 316;
- (4) Wisconsin Administrative Code, Wisconsin Commercial Building Code, SPS Chapters 361 - 366;
- (5) Elevator Code, Wisconsin Administrative Code, SPS chapter 318;
- (6) Existing Building Code, Wisconsin Administrative Code, SPS chapter 370;

- (7) Flammable and Combustible Liquids Code, Wisconsin Administrative Code, SPS 310.

Overall enforcement responsibility is equally shared by the Building Inspection Division and the Fire Department. Primary responsibility for particular sections of the above provisions shall be as indicated in the Wisconsin Administrative Code.

(b) The International Fire Code 2009 Edition, hereinafter “IFC” is hereby adopted as though fully set forth herein, with the following exceptions:

- (1) Chapter 1 of the IFC is not included as part of the adoption of the IFC, nor is Chapter 34.
- (2) The Appendices A is not included as part of the adoption of the IFC.

(c) The following editions of the National Fire Protection Codes and Standards are hereby adopted by reference and made part of the City Fire Prevention Code with the same force and effect as though set forth herein in full:

NFPA 11, Low Expansion Foam, 2002 Edition;

NFPA 12, Carbon Dioxide Extinguishing Systems, 2000 Edition;

NFPA 12A, Halon 1301 Fire Extinguishing Systems, 2004 Edition;

NFPA 13, Installation of Sprinkler Systems, 2007 Edition;

NFPA 13D, Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, 2007 Edition;

NFPA 13R, Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height, 2007 Edition;

NFPA 14, Standpipe Private Hydrant and Hose Systems, 2007 Edition;

NFPA 15, Water Spray Fixed Systems, 2007 Edition;

NFPA 16, Deluge Foam-Water Sprinkler Systems and Foam-Water Spray Systems, 2003 Edition;

NFPA 17, Dry Chemical Extinguishing Systems, 2002 Edition;

NFPA 17A, Wet Chemical Extinguishing Systems, 2002 Edition;

NFPA 20, Installation of Stationary Pumps, 2007 Edition;

NFPA 24, Private Fire Service Mains, 2007 Edition;

NFPA 25, Water Based Fire Protection Systems, 2002 Edition;

NFPA 30, Flammable and Combustible Liquids Code, 2003 Edition;

NFPA 30A, Motor Fuel Dispensing Facilities, 2003 Edition;

NFPA 30B, Aerosol Products, Manufacture and Storage, 2007 Edition;

NFPA 31, Installation of Oil Burning Equipment, 2006 Edition;

NFPA 33, Spray Application Using Flammable or Combustible Materials, 2007 Edition;

NFPA 34, Dipping and Coating Processes Using Flammable or Combustible Liquids, 2007 Edition;

NFPA 50, Bulk Oxygen Systems at Consumer Sites, 2001 Edition;

NFPA 50A, Gaseous Hydrogen Systems at Consumer Sites, 1999 Edition;

NFPA 50B, Liquefied Hydrogen Systems at Consumer Sites, 1999 Edition;

NFPA 51B, Welding, Cutting, Other Hot Work, 2003 Edition;

NFPA 54, National Fuel Gas Code, 2006 Edition;

NFPA 55, Compressed and Liquefied Gases in Portable Cylinders, 2003 Edition;

NFPA 69, Explosion Prevention Systems, 2002 Edition;

NFPA 72, National Fire Alarm Code, 2002 Edition;

NFPA 80, Fire Doors and Fire Windows, 2007 Edition;

NFPA 92A, Smoke Control Systems, 2006 Edition;

NFPA 96, Ventilation Control and Fire Protection of Commercial Cooking Operations, 2001 Edition;

NFPA 105, Standard for the Installation of Smoke-Control Door Assemblies, 2007 Edition;

NFPA 204, Smoke and Heat Venting, 2002 Edition;

NFPA 385, Tank Vehicles for Flammable and Combustible Liquids, 2000 Edition;

NFPA 430, Liquid and Solid Oxidizers, 2000 Edition;

NFPA 490, Storage of Ammonium Nitrate, 2002 Edition;

NFPA 654, Prevention of Fire and Dust Explosions from Manufacturing Combustible Particulate Solids, 2006 Edition;

NFPA 1123, Fireworks Display, 2006 Edition;

NFPA 1124, Fireworks and Pyrotechnic Articles, 2006 Edition;

NFPA 1126, Use of Pyrotechnics before a Proximate Audience, 2006 Edition;

NFPA 1221, Communications, Emergency Services, 2007 Edition;

NFPA 1961, Fire Hose, 2002 Edition;

NFPA 1962, Standard for the Inspection, Care, and Use of Fire Hose, Couplings and Nozzles; and the Service Testing of Fire Hose, 2003 Edition;

NFPA 1963, Fire Hose Connections, 2003 Edition;

NFPA 2001, Clean Agent Fire Extinguishing Systems, 2004 Edition;

(c) Any fire prevention issue not herein addressed by code or adopted standards will be addressed on the basis of current accepted National Fire Protection Association Standards.

#### **Sec. 6-57. Automatic sprinkler systems.**

(a) ***Intent of section.*** The intent of this section is to provide a means for the automatic extinguishment of fires in buildings or parts of buildings which because of their size, construction or occupancy or lack of suitable protection equipment, constitute a special fire hazard to life or property and an excessive burden upon the fire extinguishing facilities of the Fire Department.

(b) ***Definitions.*** For the purpose of this section, the following definitions shall be applicable:

***Approved*** shall mean that the material, workmanship and installation of the sprinkler system complies with the regulations as set down in the National Fire Protection Association standards for the installation of automatic sprinkler systems in effect at the date of installation and approved by Fire Chief.

***Area*** shall mean the gross ground floor area of a building or when a building is divided by approved firewalls, each section so divided shall be considered an area.

***Authority having jurisdiction*** shall be the Fire Chief or whomever the Chief designates to enforce this chapter, the laws of the state pertaining to the prevention of fires and



public safety and approving equipment, installation or procedure as outlined in National Fire Protection Association Codes and Standards.

***Automatic sprinkler equipment*** shall mean a system of water supply pipes and orifices to apply water to a fire when activated by an automatic, manual or remote control device.

***Fire-resistive construction*** shall mean a building is of fire resistive construction if all the walls, partitions, piers, columns, floors, ceilings, roof and stairs are built of noncombustible materials as specified in Wisconsin Commercial Building Code.

***Housing for the elderly*** shall mean a residential occupancy building where the occupancy is limited to primarily elderly people meeting specific age criteria as specified by the financing or owning agency.

***Institutional buildings*** shall mean and include convents, monasteries, children's homes, homes for the aged, nursing homes, convalescent homes, asylums, mental hospitals and jails.

(c) ***Buildings and areas where required.*** Every building constructed or structurally altered shall have an approved automatic sprinkler system installed and maintained when occupied in whole or part for the following purposes:

- (1) Multifamily dwellings of three (3) units or more exceeding four thousand eight hundred (4,800) square feet per floor and dormitories, except housing for the elderly, shall include the protection of all areas within the building by an automatic fire sprinkler system complying with Standard 13 of the National Fire Protection Association and equipped with residential type sprinkler heads in the living units.
- (2) Educational Group E occupancies:
  - a. In basements, kitchens, shops and other spaces where combustibles are stored or handled.
  - b. In other than fire resistive buildings.
    1. Ten thousand (10,000) square feet or over.
    2. Two (2) stories and up exceeding six thousand (6,000) square feet in area.
    3. Three (3) stories and up in height.

(d) ***Application to existing buildings.*** Where the Fire Chief finds that by reason of construction or highly combustible occupancy, existing buildings constitute a severe fire hazard to its occupants or to adjoining property, the provisions of this section will apply.

(e) ***System types and approval of plans.*** Approved automatic sprinkler equipment shall be installed, connected to an adequate water supply with sprinkler heads, valves and auxiliary equipment of standard types suitable for the individual building to be protected as determined by adopted Standard 13, of the National Fire Prevention Association. Automatic sprinkler systems shall be designed with a minimum five (5) psi water supply safety factor. No automatic sprinkler equipment shall be installed or altered in a building until plans have been submitted to fire prevention and reviewed. Four (4) copies of plans shall be submitted approved plans stamped “Conditionally Approved” and three (3) copies shall be returned to owner and the other kept on file at the Fire Department.

(f) ***Alternative materials and methods.***

- (1) The Fire Chief, on notice to the Inspections Supervisor, may approve any alternate material or method, provided he/she finds that the proposed design, use or operation satisfactorily complies with the intent of this code and that the material, method of work performance or operation is, for the purpose intended at least the equivalent of that prescribed in this section in quality, strength, effectiveness, fire resistance, durability and safety, provided, however, that any approval under the authority herein contained shall be subject to the approval of the building official whenever the alternate material or method involves matters regulated by the Wisconsin Administrative Code.
- (2) The Fire Chief may require tests as proof of compliance with the intent of this section, such tests to be made by an approved agency at the expense of the person requesting approval of the alternate material or method of construction.
- (3) If technical expertise is unavailable within the Department because of new technology, process, products, facilities, materials and uses attending the design, operation or use of a building or premises subject to the inspection of the Department, the Fire Chief may require the owner or the person in possession or control of the building or premises to provide without charge to the Department, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire-safety organization acceptable to the Fire Chief and the owner and shall analyze the fire safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, and prescribe the necessary recommended changes.

(g) ***Inspection.*** Every automatic sprinkler system required under this section shall be tested and inspected upon installation, according to the National Fire Protection Association Standards in effect at time of installation.

(h) ***Maintenance.***

- (1) The owner or occupant of a building containing the required automatic sprinkler system shall maintain the system in an operative condition at all

times. The occupant of the building shall notify the Fire Department prior to interrupting this system for any reason or at the time it is withdrawn or its service interrupted or curtailed. Testing and maintenance of such systems shall be performed according to Standard 25, of the National Fire Protection Association. Copies of all tests results shall be furnished to the Fire Chief of the Fire Department.

(i) **Water.** Where an automatic sprinkler system is required, the supply shall be from the city water supply. Testing of the water supply shall be conducted by using the two (2) hydrants closest to the property being sprinkled. Tests over two (2) years old will not be accepted unless approved by the Fire Chief after taking into consideration growth, size and changes in the general area. The sprinkler contractor will take all readings with the Director of Public Works approval and assistance in hydrant use. The Fire Chief will be informed of all testing twenty-four (24) hours in advance and be given an opportunity to observe testing.

#### **Sec. 6-58. Welding and cutting operations.**

In addition to the International Fire Code, all welding and cutting operations shall also comply with this code.

(a) Before welding or cutting operations have begun in areas not designed or approved for that purpose, specific authorization shall be obtained from the owner of the premises or his/her duly authorized agent.

(b) When welding or cutting operations are performed above or within thirty-five (35) feet of construction or material exposed to the operation or within thirty-five (35) feet of floor, ceiling or wall openings so exposed:

- (1) Such construction or combustible material shall be protected by noncombustible shields or covers from possible sparks, hot metal or oxide;
- (2) Such floor, ceiling or wall shall be protected by noncombustible shields or covers.

(c) A firewatcher shall be provided to watch the fire, make use of portable fire extinguishers or fire hose and perform similar fire prevention and protection duties. The firewatcher shall remain on the job at least thirty (30) minutes after the welding or cutting operation has been completed to insure that no fire exists. A signed inspection report attesting to that fact shall be filed and available for inspection by the Fire Marshal.

(d) One (1) or more portable fire extinguishers of approved type and size shall be kept at the location where welding or cutting is to be done.

(e) Welding or cutting shall not be done in or near rooms or locations where flammable gases, liquids or vapors, lint, dust or loose combustible stocks are present when sparks or hot metal from the welding operation may cause ignition or explosion of such material.

(f) Except as otherwise provided in this section, welding or cutting shall not be performed on containers and equipment which contain or have contained flammable liquids, gases or solids until these containers and equipment have been thoroughly cleaned or made inert or purged.

(g) Hot tapping may be permitted on tanks or pipelines by the owner-operator thereof.

(h) Sprinkler protection shall not be shut off while welding or cutting work is being performed. When welding or cutting is being done close to automatic heads, sheet asbestos or damp cloth guards may be used to shield the individual heads but shall be removed when the work is completed.

#### **Sec. 6-59. Outside storage of recyclables and building material.**

Scrap or old lumber and old building material shall not be stored or kept in a residential area. Storage of scrap lumber or other materials in other than residential areas shall be handled to conform to recognized safe practices for lumber yard storage of IFC. Recyclables stored outside shall conform to IFC.

#### **Sec. 6-60. Smoke alarms.**

(a) **Definitions.** For purposes of this section, the following definitions shall apply:

**Dwelling** shall mean a structure or part of a structure providing complete, independent living facilities for one (1) or more persons, including permanent provisions for sleeping, eating, cooking and sanitation.

**Sleeping area** shall mean the area of the unit in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas, but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

**Smoke alarm** shall mean a device which detects particles or products of combustion other than heat.

(b) **Location and installation of smoke alarms.**

(1) Each dwelling unit shall be provided with a minimum of one (1) approved smoke alarm installed in a manner and location consistent with its listing. The Fire Department Fire Prevention Division can be contacted for recommendations when an owner is concerned about the installation and number of smoke alarms.

(2) All existing dwelling units must meet the requirement of the State of Wisconsin Uniform Dwelling Code, Wisconsin Administrative Code, SPS 321.09 and 328.01 Smoke Detectors. Each dwelling unit shall be provided with a minimum of one (1) approved, listed and labeled smoke alarm sensing visible or invisible particles of combustion, installed in a manner and location

consistent with its listing.

(c) ***Approval.*** A smoke alarm or heat detector required under this section shall be approved by Underwriter's Laboratories, Factory Mutual or any other comparable testing firm.

(d) ***Department inspection and order.*** Inspection of new construction will be carried out by the Division of Inspections at its final inspection.

(e) ***Conveyance of property.*** No person shall convey any real property which includes a dwelling unit to another unless there are installed in the dwelling unit approved smoke alarms in accordance with (d) above. Any purchaser of real property found not to be in compliance with this subsection may bring an action in circuit court for damages. A violation of the provisions of this subsection shall not affect the conveyance of title or possession to the affected property.

#### **Sec. 6-61. Discharge of hazardous materials.**

(a) ***Prohibited discharges.*** No person shall discharge or cause to be discharged, leaked, leached or spilled upon any public or private street, alley, public or private property, or onto the ground, surface waters, subsurface waters, or aquifers, or within the city, except those areas specifically licensed for waste disposal or landfill activities and to receive such material, any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.

(b) ***Spill notification.*** Immediately upon discovery of a discharge involving any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment the property owner, equipment operator, or discovering person shall notify the Appleton Fire Department of the discharge of a hazardous material.

(c) ***Responsibility for containment, cleanup and restoration.*** Any person in violation of (a) above shall, upon direction of any Fire Department officer, begin immediate actions to contain, cleanup and remove to an approved repository the offending material(s) and restore the site to its original condition, with the offending person being responsible for all expenses incurred. If any person fails to engage the necessary men and equipment to comply or to complete the requirements of this section, the office of the Fire Chief may order the required actions to be taken by public or private sources and allow the recovery of any and all costs incurred by the City as required by (d) below.

(d) ***Reimbursement for costs of emergency services response.*** Emergency service response includes, but is not limited to, fire service, emergency medical service and law enforcement. A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for the actual and necessary expenses incurred in carrying out their duties under this article. Actual and necessary expenses may include, but not be limited to, replacement of

equipment damaged by the hazardous material, cleaning, decontamination and maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of response, decontamination, cleanup and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agency's medical advisor.

(e) **Site access.** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to Fire Department officers and staff and to Police Department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.

(f) **Public protection.** If any prohibited discharge occurs that threatens the life, safety or health of the public at, near or around the site of a prohibited discharge, and the situation is so critical that immediate steps must be taken to protect life and limb, the Fire Chief, his/her assistant or the senior police official on the scene of the emergency may order an evacuation of the area or take other appropriate steps for a period of time until the Common Council can take appropriate action.

(g) **Enforcement.** The Fire Chief, as well as the police officers, shall have authority to issue citations or complaints under this section.

(h) **Civil liability.** Any person in violation of this section shall be liable to the City for any expenses incurred by the City or loss or damage sustained by the City by reason of such violations.

#### **Sec. 6-62. Miscellaneous standards.**

(a) Interior finishes, decorative materials and furnishings shall comply with International Fire Code, Chapter 8.

(b) Flame retardant solutions, processes and applicators must be approved by the Fire Chief.

#### **Sec. 6-63. Fireworks and pyrotechnic devices.**

(a) Definition: For the purpose of this section the following definition shall be applicable:

“Fireworks shall include all items under W.S.A. sec. 167.10(1) (intro), (e), (f), (i), (j), (k), (l), (m) and (n).”

(b) The provisions in this section shall apply to places where fireworks are stored or handled. Such premises shall be adequately equipped with fire extinguisher approved by the Fire Chief. Smoking is prohibited where fireworks are stored or handled.

(c) Every wholesaler, dealer or jobber keeping, storing, or handling fireworks of any description within the City shall notify the Fire Chief immediately upon receipt of such fireworks for the removal thereof from one (1) location to another and shall indicate the location where such fireworks are stored. No such fireworks shall be stored in any building used for dwelling purposes or

in any building situated within fifty (50) feet of any building used for dwelling purposes, or in any place of public assemblage, or within fifty (50) feet of any gasoline pump, gasoline filling station, or gasoline bulk station, or in any building in which gasoline or flammable liquid is sold in quantities in excess of one (1) gallon. The storage buildings for fireworks shall conform to Standard 1124 of the National Fire Protection Association Standards and Codes.

(d) This section shall prohibit the use of any pyrotechnic device indoors of an occupancy without a permit from the Fire Chief. Such permits will not be issued for any event in an unsprinkled occupancy. Permit applications will be made in writing seven (7) days in advance of the date of the display.

(e) The use of the pyrotechnic device shall be handled by a competent adult operator and shall be of such composition, character and be located, discharged or fired as in the opinion of the Fire Chief shall not be hazardous to property or endanger any persons.

(f) The display, storage and discharge of fireworks shall be regulated by and comply with all IFC, NFPA, state and local codes and nationally recognized standards.

(g) The outdoor use of pyrotechnic devices shall be regulated by §10-5 of this Code and W.S.A. §167.10.

#### **Sec. 6-64. Posted occupant load.**

(a) Every room or space that is an assembly occupancy shall comply with International Fire Code.

(b) The number of persons in any building or portion thereof shall not exceed the amount determined as specified in the State building code, as surveyed by the Supervisor of Inspections, the Fire Chief, or his/her designee.

(c) No person shall permit overcrowding or admittance of any person beyond the approved capacity of any place of public assemblage as specified above. The Fire Chief, upon finding any overcrowding conditions or obstruction in aisles, passageways or other means of egress or upon finding any condition which constitutes a serious menace to life, shall cause the performance, presentation, spectacle or entertainment to be stopped with the assistance of the Police Department until such condition or obstruction is corrected. The manager or person in charge of the premises shall be responsible for preventing overcrowding.

#### **Sec. 6-65. Fire apparatus access roads.**

(a) **Definitions.** For the purpose of this section, the following definitions shall be applicable:

**Fire apparatus access road** means a hard surface designated and maintained to support the imposed loads of fire apparatus and shall be maintained so as to provide all-weather driving capabilities and have a minimum of thirteen (13) feet six (6) inches in vertical clearance.

**Street** means any legally established public thoroughfare or all weather hard surface area thirty (30) feet or more in width unless otherwise approved by the Fire Department, whether designated or not by name such as avenue, boulevard, circle, court, drive, lane, place, road or way within fifty (50) feet of the building and maintained so as to provide all-weather driving capabilities and have a minimum of thirteen (13) feet six (6) inches in vertical clearance.

(b) Fire apparatus access roads shall be provided according to the International Fire Code and this ordinance.

(c) Multi-family residential projects having more than fifty (50) dwelling units shall be provided with a minimum two (2) separate and approved streets or approved Fire Department access roads.

(d) When conditions prevent the installation of an approved fire apparatus access road, the Fire Chief may permit the installation of a fire protection system in lieu of a road, provided the system or systems are not otherwise required by this or any other code.

#### **Sec. 6-66. Atrium furnishings.**

(a) Atriums are defined as a floor opening two (2) or more stories that are covered at the top of the series of openings and is used for purposes other than an enclosed stairway, elevator hoist way or utility shaft used for plumbing, electrical, air conditioning or communication facilities.

(b) All decorative materials in atriums shall be noncombustible or shall be flame retardant treated and be so maintained. Devices generating an open flame shall be approved by the Fire Chief prior to use.

#### **Sec. 6-67. Working plans of suppression/detection and control systems.**

(a) Working plans of all fire suppression, detection and control systems shall be submitted to the Fire Department Prevention Division in duplicate, before any equipment is installed or remodeled. Deviation from approved plans will require permission of the authority having jurisdiction.

(b) Fire protection system plans shall be drawn to an indicated scale of not less than 1/8" on sheets of uniform size with a plan of each floor or section. Plans must be easily duplicated and shall show all pertinent information as required by NFPA standards for plan submittals.

#### **Sec. 6-68. Plan review fee structure and requirements.**

A schedule of plan review fees shall be maintained in the City Clerk's Office. This schedule specifies the fees for plan examination and approval for projects located within the city of Appleton.

Note: If the property is subject to state plan review, the additional fee required under Wisconsin Administrative Code, SPS Table 302.31-3 will be added to the appropriate municipal fee.

(1) **Miscellaneous fee.** The miscellaneous fee shall be assessed for submission



of plans for non-water based fire extinguishing systems, spray booth fire suppression systems and standpipe and hose systems. The miscellaneous fee will apply to such systems that are submitted separately from the automatic fire sprinkler system and/or fire alarm system. Where the plans for the automatic fire sprinkler systems and/or fire alarm systems are submitted with, for example, the kitchen exhaust hood fire suppression system plans, the fees will be based on the square footage of the project and no miscellaneous fee will be charged for review of plans of non-water based extinguishing systems.

- (2) ***Multiple identical buildings.*** In order to qualify for the multiple identical building fee, all buildings included in the project must be identical, and plans for such buildings must be submitted at the same time. The fee for submittal of plans for the first building shall be determined in accordance with the fee schedule on file with the City Clerk's Office. The fee for each remaining identical building shall be twenty-five percent (25%) of the appropriate fee.
- (3) ***Shell buildings.*** When an application is submitted for a property where only the shell of the property has been completed, the fee will be calculated at fifty percent (50%) of the appropriate fee set forth in the fee schedule on file with the City Clerk's Office on the basis of the total gross area of the building. When an application is submitted for the construction of the interior of a building where the shell has been previously granted a permit, the fee for the interior construction shall be calculated at fifty percent (50%) of the total gross area as set forth in the fee schedule on file with the City Clerk's Office. Should the interior be completed in sections, the fee shall be calculated at the percentage of the area being completed, cumulative interior fee not to exceed fifty percent (50%) of the total gross area as set forth in the fee schedule on file with the City Clerk's Office.
- (4) ***Fire doors/shutters.*** Fire door/shutter plan review and inspection shall be assessed an initial minimum fee as indicated on the fee schedule for the first fire door/shutter and as indicated on the fee schedule for each additional door/shutter. This fee does not apply to fire doors/shutters already reviewed as part of an ongoing project.
- (5) ***Re-submission fee.*** A fee shall be assessed for review of plans submitted following denial of plan approval.
- (6) ***Re-inspection fee.*** The inspection of work performed under an approved plan is included in the fee for plan reviews. This fee does not include any re-inspections required because the inspected work failed to pass inspection. A re-inspection fee equaling twenty-five percent (25%) of the original plan review fee, fifty dollars (\$50.00) minimum, shall be assessed due to system failure during the initial inspection.
- (7) ***Fee for initiation without a permit.*** Penalty for failure to obtain a permit

before starting work shall automatically double the applicable fees, and all work shall cease until the proper permits have been attained.

**Sec. 6-69. Maintenance, approval and registration of installed fire protection systems.**

(a) **Maintenance.** All sprinkler systems, fire hydrant systems, standpipe systems, fire alarm systems, portable fire extinguishers, smoke and heat ventilators, smoke-removal systems and other fire protection or extinguishing systems or appliances shall be maintained in an operative condition at all times and shall be replaced or repaired where defective. Fire-protection or extinguishing systems coverage, spacing and specifications shall be maintained in accordance with recognized standards at all times. Such systems shall be extended, altered or augmented as necessary to maintain and continue protection whenever any building so equipped is altered, remodeled, added to or changes occupancy hazard. All additional, repairs, alterations and servicing shall be in accordance with recognized standards and copies of such work sent to Fire Prevention of the Fire Department.

(b) **Approvals.** All fire extinguishing systems, including automatic sprinkler systems, classes I, II, III combined stand pipes, Halon systems, and other special automatic extinguishing systems and basement pipe inlets, shall be approved in accordance with §6-71 and shall be subject to periodic tests as may be required. A copy of all test results of the above systems must be provided to the Fire Chief or his/her designee upon completion of the testing. The location and size of all Fire Department hose connections shall be approved by the Fire Chief or his/her designee.

- (c) (1) **Registration.** All installers of fire protection components, including, but not limited to, agencies monitoring alarm integrity, shall register with the Fire Department pertinent contact information including, but not limited to, address, phone number and name of responsible person. Registry information shall be updated with AFD within ten (10) days of any change to information previously provided.
- (2) A fee may be assessed to any registered installer and/or monitoring agent deemed responsible for causing a false alarm. Said fee will be billed to the responsible party, if not the alarm user, and will be that amount indicated in the false alarm fee schedule. Failure to pay fees could result in failure to obtain permit(s) for future work. An appeal of a false alarm assessment can be made by writing the Fire Chief or his/her designee within ten (10) business days after notification of the fee. Contesting the Chief's decision involves a review by the Safety and Licensing Committee by submitting a written notification to the City Clerk's Office.

**Sec. 6-70. Notification of special public assembly events.**

(a) For the purpose of this section, public assembly is defined as an event which exceeds one hundred (100) people.

(b) Except as provided in (d), notification must be provided to the Department within five (5) business days prior to the holding of special public assembly events which involves the use of

buildings or spaces not approved for public assembly in accordance with the Wisconsin State Building Code and the IFC.

(c) Except as provided in (d), notification must be provided to the Department within five (5) business days prior to the holding of special public assembly events which involves the placement of temporary seating in an area not otherwise approved for such seating.

(d) Notification is not required if a plan indicating occupancy capacity, seating arrangements, location and width of exit ways and aisles is submitted to the Fire Department and pre-approved by the Fire Chief or his/her designee.

Note: Building owners may pre-approve a building or space within the building for special events by submitting an approved plan. This exception allows for multiple special events.

#### **Sec. 6-71. Fire division walls and occupancy separation wall identification.**

Building owners shall identify fire division walls and occupancy separation walls in accordance with the Wisconsin Commercial Building Code.

#### **Sec. 6-72. Repeat violation rule.**

Whenever the Fire Chief or his/her designee shall find in any building, upon inspections or re-inspections, a repeat violation involving a fire detection, life safety component, or suppression system which is defective, inoperative, improperly maintained or operated the Fire Chief or designee may order the following remedies and/or a re-inspection fee.

(a) If the system includes one (1) or more exit light(s) which have not been illuminated during inspections, it may be ordered that any or all of the exit lights in such premises be equipped with self-illuminating lights or light equipped with light emitting diodes (LEDs).

(b) If the system includes one (1) or more self-closing fire door(s), any of which have been found to have been held open with non-approved hold open devices during inspections, it may be ordered that any or all of the fire doors in such premises be equipped with an automatic closing device.

(c) If the system includes one (1) or more battery operated smoke detector(s) which have been found to be inoperative during inspections, it may be ordered that the premises be equipped with long life (5 – 10 year battery life) smoke detectors.

(1) If the same occupancy is subsequently found to have inoperative smoke detector(s) it may be ordered that the smoke detectors be hardwired into the electrical service of the premises.

(2) If the premise is found to have no operable smoke detectors, the Fire Department may install smoke detectors and may charge the owner for the actual cost of the detectors and installation.

(d) If the system includes emergency exit doors which, during hours of occupancy, have been found to be secured or locked with bolts, bars, chains, padlocks, or locking devices other than the primary locks, it may be ordered that such bolts, bars, chains, padlocks, or additional locking devices be immediately removed; and it may be further ordered that all emergency exit doors within the premises be equipped with panic door release hardware.

(e) This subsection shall not be construed as a limitation upon the powers of the Chief or his/her designee to issue orders for corrections of violations nor shall this subsection be construed as a limitation upon any of the powers of the Chief under any applicable provision of the City of Appleton Municipal Code, Wisconsin Administrative Code or the Wisconsin Statutes.

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