



Common Council

Regular Meeting

335 South Broadway
De Pere, WI 54115
<http://www.de-pere.org>

Agenda

Tuesday, October 4, 2016

7:30 PM

De Pere City Hall Council Chambers

Pursuant to Wisconsin Statutes 19.84, Notice is hereby given to the public that a meeting of the **Common Council** of the City of De Pere will be held on **October 4, 2016** at **7:30 PM** in the **De Pere City Hall Council Chambers**, 335 S. Broadway Street, De Pere, WI 54115.

This meeting can be viewed LIVE on TW Cable Channel 4; AT&T U-verse Channel 99; www.depere.tv. This meeting is also rebroadcast on TV throughout the week and available on demand at www.depere.tv.

Call to order.

1. Roll call.
2. Pledge of allegiance to the Flag.
3. Approval of the Minutes of the September 20, 2016 Common Council Meeting.
4. A Public Hearing to act on the repeal and recreation of Chapter 28, De Pere Municipal Code regarding Stormwater Management Zoning (Post Construction) regulation under Wis. Stats. §62.234.
 - A. Notice of Public Hearing.
 - B. Recommendation from the Board of Public Works.
 - C. Ordinance #16-22, Repealing and Recreating Chapter 28-Stormwater Management Zoning (Post Construction).
5. Public comment upon matters not on the agenda or other announcements.
6. Recommendation from the License Committee on an Application for a Temporary Premise Description Change for St. Norbert College.
7. Recommendation from the License Committee on an Application for Change of Agent submitted by Walgreen Co.
8. Recommendation from the Board of Park Commissioners to accept the Pink Flamingo Donation for the Recreation Scholarship.
9. Recommendation from the Board of Park Commissioners to accept a Project Proposal for a Decorative Planter at the Dog Park Entrance for the De Pere Dog Park.
10. Recommendation from Plan Commission to Approve a Proposed Extraterritorial Two-Lot Certified Survey Map at 3975 Creamery Road in Ledgeview (Parcel D-486-2). Submitted by Richard A. Huxford, PLS.
11. Recommendation from Plan Commission to Approve a Proposed Four-Lot Certified Survey Map at 2100 BLK Richco Road in De Pere (Parcels WD-L178-1-1, WD-L179, WD-L179-3, WD-L179-4). Submitted by City of De Pere.
12. Consideration of Ordinance Changes to Historic Preservation Ordinance.

- A. Ordinance #16-23A, Amending Various Provisions of Chapter 38 De Pere Municipal Code Regarding Historic Preservation in Compliance with 2015 Wisconsin Act 176.
- B. Ordinance #16-23B, Amending Various Provisions of Chapter 38 De Pere Municipal Code Regarding Historic Preservation for Continued Certified Local Government Status.
13. Resolution #16-104, Regarding the Vacation of a Portion of a Public Thoroughfare (Railroad Spur 500 Block of Fortune Avenue).
14. Resolution #16-105, Regarding the Vacation of a Portion of a Public Thoroughfare (2100 Block of Richco Road).
15. Resolution #16-106, Disallowance of Claim (Beverly Wojkiewicz).
16. Resolution #16-107, Authorizing Agreement Regarding the Sale/Purchase and Right of First Refusal of Certain Property Between the City of De Pere and Green Bay Packaging, Inc.
- A. Plan Commission recommendation for or a two lot CSM on the south end of American Boulevard parcel WD-L492-B. Surveyor: Mau & Associates.
17. Resolution #16-108, Authorizing Contract to Administer the Retail Food and Recreational Programs for the Wisconsin Department of Agriculture Trade and Consumer Protection.
18. Confirmation of Appointment To Position of Health Officer/Director
19. Voucher Approval.
20. Operator License Applications.
21. Future agenda items.
22. Adjournment.

Lawrence M. Delo
City Administrator

Any person wishing to attend this meeting who, because of disability, requires special accommodations should contact the Clerk-Treasurer's office at 339-4050 by Noon, the previous day so that arrangements can be made.

Agenda Sent To:

Alderspersons
Mayor
City Administrator
Department Heads
TV, Newspaper & Radio Stations
Kress Family Library
De Pere Chamber of Commerce
Collin Fayas
Dave VandeHei, Pink Flamingo's
Toni Minor
Terrie Dubois, St. Norbert College
Tonya Wagner, Mau & Associates

Pat Wrenn, St. Norbert College
Richard Huxford
Laura Peters, P.O.A. for Elaine M. Gossen
Tina Warnke, KCS, Inc.

City of De Pere, Wisconsin**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: City Clerk-Treasurer

FROM: Shana Ledvina

SUBJECT: Approval of the Minutes of the September 20, 2016 Common Council Meeting.

ATTACHMENTS:

- 9-20-16 Common Council Minutes (DOC)



Common Council

Regular Meeting

335 South Broadway
De Pere, WI 54115
<http://www.de-pere.org>

Draft Minutes

Tuesday, September 20, 2016

7:30 PM

De Pere City Hall Council Chambers

1. Call to order: The Common Council Meeting was called to order on September 20, 2016 at 7:30 PM, De Pere City Hall Council Chambers, 335 S. Broadway Street, De Pere, WI.

Attendee Name	Title	Status
Michael J. Walsh	Mayor	Excused
James Boyd	Aldersperson	Present
Dan Carpenter	Aldersperson	Present
Scott Crevier	Aldersperson	Present
Michael Donovan	Aldersperson	Present
Ryan Jennings	Aldersperson	Present
Larry Lueck	Aldersperson	Present
Dean Raasch	Aldersperson	Present
Lisa Rafferty	Aldersperson	Present

2. Pledge of allegiance to the Flag.
3. Approval of the Minutes of the September 6, 2016 Common Council Meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry Lueck, Aldersperson
SECONDER:	Dean Raasch, Aldersperson
AYES:	Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

4. Public Hearing to act on the repeal and recreation of Chapter 42, De Pere Municipal Code regarding Construction Site Erosion Control Zoning regulation under Wis. Stats. §62.234.
 - A. Notice of Public Hearing.
Clerk-Treasurer Shana Ledvina announced that the public hearing was published in the Green Bay Press Gazette on September 9 and 12, 2016.
 - B. Recommendation from the Plan Commission.
Economic Development and Planning Director Kim Flom stated that the Plan Commission voted unanimously to support this change.
 - C. Ordinance #16-19, Repealing and Recreating Chapter 42- Construction Site Erosion Control Zoning.
Council President Mike Donovan declared the public hearing open; no one wished to speak and he declared the public hearing closed and entertained a motion.

Attachment: 9-20-16 Common Council Minutes (5158 : Approval of the Minutes of the September 20, 2016 Common Council Meeting.)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Boyd, Alderperson
SECONDER:	Scott Crevier, Alderperson
AYES:	Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

5. Public comment upon matters not on the agenda or other announcements.

Alderperson Jennings announced a ribbon cutting at The Shinery on Friday, September 23, 4:30 p.m. with Definitely De Pere. He also announced that Friday, September 23 is the last day that property owners can apply for a tree on your terrace and to see city forestry web page for details.

6. Recommendation from the Board of Public Works to Reject the Bids for Project 16-20 Dumpster Enclosure Construction.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dean Raasch, Alderperson
SECONDER:	Lisa Rafferty, Alderperson
AYES:	Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

7. Recommendation from the License Committee on an application for a Class "A" Beer and "Class A" Liquor License for The Shinery LLC (DBA The Shinery), 327 Main Av, De Pere, WI. Submitted by The Shinery LLC, Agent: Elizabeth Reissmann, 5091 Pumpkin Ct, Larsen, WI.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dean Raasch, Alderperson
SECONDER:	Dan Carpenter, Alderperson
AYES:	Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

8. Ordinance #16-20, Amending Section 13-7(a) De Pere Municipal Code Regarding Non-Assessable Public Infrastructure Improvements

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Boyd, Alderperson
SECONDER:	Scott Crevier, Alderperson
AYES:	Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

9. Ordinance #16-21 Amending §7-2 De Pere Municipal Code Regarding Liquor Licensing and Fees.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dean Raasch, Alderperson
SECONDER:	Dan Carpenter, Alderperson
AYES:	Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

10. Resolution #16-96, Authorizing Agreement Regarding the Sale and Purchase of Certain Business Property Between the City of De Pere and Paroubek Holdings, LLC (Part of Parcel ED-F0081-2).

RESULT: ADOPTED [UNANIMOUS]
MOVER: James Boyd, Alderperson
SECONDER: Larry Lueck, Alderperson
AYES: Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

11. Resolution #16-97, Authorizing Consultant Agreement Between the City of De Pere and Graef-USA, Inc. (Storm Water Management Planning).

RESULT: ADOPTED [UNANIMOUS]
MOVER: Larry Lueck, Alderperson
SECONDER: Scott Crevier, Alderperson
AYES: Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

12. Resolution #16-98, A Resolution Authorizing and Providing for the Sale and Issuance of \$7,985,000* General Obligation Promissory Notes, Series 2016A, and All Related Details.

Joe Murray with Springsted and Finance Director Joe Zegers came forward to discuss the bonds. Finance Director Joe Zegers explained that the City has been presented with the lowest interest rates we've ever borrowed at; 1.37% and 2% for the taxable bonds. Resolution 16-98 was updated and decreased in amount, from \$7,985,000 to \$7,915,000; the second bond remained the same. Discussion followed regarding the process of bids on the bonds, refunding of existing bonds, and savings enjoyed by taking advantage of refunding. Joe Murray stated that the City received a rating from Moody's of AA2, which is the third highest rating possible and reflects favorably on the City's financials. Discussion followed regarding other municipalities' ratings, dealing with the impending debt bubble, and refunding in the future.

RESULT: ADOPTED [UNANIMOUS]
MOVER: James Boyd, Alderperson
SECONDER: Scott Crevier, Alderperson
AYES: Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

13. Resolution #16-99, A Resolution Authorizing and Providing for the Sale and Issuance of \$890,000* Taxable General Obligation Promissory Notes, Series 2016B, and All Related Details.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Dean Raasch, Alderperson
SECONDER: Scott Crevier, Alderperson
AYES: Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

14. Resolution #16-100, Authorizing Health Risk Assessment Services Agreement Between the City of De Pere and Bellin Memorial Hospital, Inc. D/B/A Occupational Health Solutions ("Bellin") (Health Risk Assessments for Health Plan Participants).

RESULT: ADOPTED [UNANIMOUS]
MOVER: Lisa Rafferty, Alderperson
SECONDER: Scott Crevier, Alderperson
AYES: Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

15. Resolution #16-101, Authorizing Proposal/Contract Agreement for Antennas Between the City of De Pere and Dixon Engineering, Inc. (T-Mobile Upgrade - Merrill Street Water Tower).

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dean Raasch, Alderperson
SECONDER:	Scott Crevier, Alderperson
AYES:	Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

16. Resolution #16-102, Authorizing Agreement for Contractor Services Between the City of De Pere and Water Tower Clean and Coat, Inc. (9th Street Reservoir Maintenance & Repair).

Alderperson Crevier asked that if the inspection is required every 5 years, are repairs also done every 5 years?

Public Works Director Scott Thoresen explained that the last inspection was done in 2014; there were various items that needed repair and they are being completed at this time.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dan Carpenter, Alderperson
SECONDER:	Ryan Jennings, Alderperson
AYES:	Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

17. Resolution #16-103, Authorizing Exchange of Polycarts Without Fee to Comply with Polycart Collection Limits Effective 6/1/2017.

Public Works Director Scott Thoresen explained that the intent of this resolution is to allow property owners throughout the community to comply with the new cart limitations going into effect next summer. This is strictly designed for those who exceed the cart limit now. Discussion followed regarding those with damaged carts, costs of large and small carts, and the option to exchange smaller carts for larger carts. Public Works Director Scott Thoresen explained that the Council can address the cart fees when the fee schedules are updated at the end of this year. Discussion followed.

RESULT:	ADOPTED [6 TO 2]
MOVER:	Ryan Jennings, Alderperson
SECONDER:	Dean Raasch, Alderperson
AYES:	Boyd, Carpenter, Donovan, Jennings, Lueck, Raasch
NAYS:	Scott Crevier, Lisa Rafferty

18. Approve Emergency Contingency Fund for Repair of VFW Pool.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Boyd, Alderperson
SECONDER:	Dean Raasch, Alderperson
AYES:	Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

19. Appointments to the Board of Review.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry Lueck, Alderperson
SECONDER:	Dean Raasch, Alderperson
AYES:	Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

20. Voucher Approval.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Dean Raasch, Alderperson
SECONDER: Lisa Rafferty, Alderperson
AYES: Boyd, Carpenter, Crevier, Donovan, Jennings, Lueck, Raasch, Rafferty

21. Operator License Applications.

CITY OF DE PERE - September 20, 2016					
ITEM	NAME	ADDRESS	CITY	ST	ZIP
Previously Tabled Operator Licenses					
1	CAELWAERTS, WINETTE C.	1901 RIDGEWAY DR #37	DE PERE	WI	54115
2	PHILLIPS, JOSEPH K.	3201 GLENDALE AV	GREEN BAY	WI	54313
New Operator License Applications for the 2016-2018 Licensing Period					
1	AUGUSTIN, ROBIN A.	W5634 DEPOT ST, P.O. BOX 81	NICHOLS	WI	54152
2	BOLDT, TRISHA M.	14529 CTY RD F	VALDERS	WI	54245
3	BURGOYNE, LEONARD	1222 WESTERN AV	GREEN BAY	WI	54303
4	FERNANDEZ, HAKEEM M.	1791 BRIARWOOD CT	DE PERE	WI	54115
5	HENDRICKS, RICHARD L.	617 BIRCH ST	DE PERE	WI	54115
6	SMITH, FRANCIS R.	1380 SCHEURING RD #42	DE PERE	WI	54115
7	STOFFREGEN, AIMEE M.	1700 S. OAKWOOD RD	OSHKOSH	WI	54904
8	STREGE, STEFANIE S.	159 KENNEY ST	GREEN BAY	WI	54301
9	TOWLE, KATHERINE A.	536 N. HENRY ST	GREEN BAY	WI	54302
10	RYAN, TREY W.	1729 CHARLES ST	DE PERE	WI	54115

Alderperson Raasch moved, seconded by Alderperson Boyd to approve Previously Tabled Operator License Application #1 and to table Previously Tabled Operator License Application #2. Upon vote, motion carried unanimously.

Alderperson Raasch moved, seconded by Alderperson Carpenter to approve Operator License Applications #1, 2, 4, 6, and 7. Upon vote, motion carried unanimously.

Alderperson Raasch moved, seconded by Alderperson Boyd to table Operator License Applications #5, 8 and 9. Upon vote, motion carried unanimously.

Alderperson Raasch moved, seconded by Alderperson Carpenter to deny Operator License Applications #3 and 10. Upon vote, motion carried unanimously.

22. Future agenda items. None.

23. Adjournment. Alderperson Crevier moved, seconded by Alderperson Boyd to adjourn the meeting at 8:21 p.m. Upon vote, motion carried unanimously.

Respectfully submitted,

Shana Ledvina, Clerk-Treasurer

City of De Pere, Wisconsin

**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: City Attorney

FROM: Angela Zills

SUBJECT: Ordinance #16-22, Repealing and Recreating Chapter 28-
Stormwater Management Zoning (Post Construction).

The Board of Public Works at the September 12, 2016 meeting approved the updates to Chapter 28, Stormwater Management Ordinance (Post Construction).

The City of De Pere last updated its post construction stormwater management ordinance in 2009. The Wisconsin Department of Natural Resources (WDNR) is requiring that the city update its stormwater management (post construction) and the erosion control ordinances. The erosion control ordinance was approved at the September 20, 2016 Common Council meeting.

ATTACHMENTS:

- Ord16-22 (DOCX)
- Chapter 28 Ord 2106 Public Hearing Notice (Class 2) (DOCX)
- Ch 28 Stormwater Mgmt Zoning Post Const - red-lined 9-13-16 (DOCX)

ORDINANCE #16-22

REPEALING AND RECREATING CHAPTER 28-
STORMWATER MANAGEMENT ZONING (POST CONSTRUCTION)

WHEREAS, the Common Council of the City of De Pere, having reviewed the recommendation of the City Plan Commission regarding the repeal and recreation of De Pere Municipal Code Chapter 28 – Stormwater Management Zoning (Post Construction) regulation under Wis. Stats. §62.234 and having scheduled a public hearing then to be decided by the Common Council; and

WHEREAS, the City Clerk-Treasurer, having published a Class 2 Notice of Public Hearing regarding such proposed repeal and recreation, and pursuant thereto, a public hearing having been held on the 4th day of October, 2016 at 7:35 p.m. and the Common Council having heard all interested parties or their agents and attorneys;

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF DE PERE, WISCONSIN, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 28-Stormwater Management Zoning (Post Construction), is hereby repealed and recreated as follows:

Sec. 28-1. - Authority.

- (a) This chapter is adopted by the common council under the authority granted by Wis. Stats. § 62.234. This chapter supersedes all provisions of an ordinance previously enacted that relate to stormwater management regulations. Except as otherwise specified in Wis. Stats. § 62.234, Wis. Stats. § 62.23 applies to this chapter and to any amendments to this chapter.
- (b) The provisions of this chapter are deemed not to limit any other lawful regulatory powers of the same governing body.
- (c) The common council hereby designates the director of public works or designee to administer and enforce the provisions of this chapter.
- (d) The requirements of this chapter do not pre-empt more stringent stormwater management requirements that may be imposed by any of the following:
 - (1) The Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.
 - (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under § NR 151.004, Wis. Adm. Code.

Sec. 28-2. - Findings of fact.

The common council finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (a) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (d) Reduce the quality of groundwater by increasing pollutant loading.
- (e) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- (f) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- (g) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

Sec. 28-3. - Purpose and intent.

- (a) Purpose. The general purpose of this chapter is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:
 - (1) Further the maintenance of safe and healthful conditions.
 - (2) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
 - (3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
 - (4) Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.
- (b) Intent. It is the intent of the common council that this chapter regulates post-construction stormwater discharges to waters of the state. This chapter may be applied on a site-by-site basis. The common council recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this chapter is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Wis. Stats. § 281.16, for regional stormwater management measures and have been approved by the common council, it is the intent of this chapter that the approved plan be used to identify post-construction management measures acceptable for the community.

Sec. 28-4. - Applicability and jurisdiction.

(a) Applicability.

- (1) Where not otherwise limited by law, this chapter applies to all post-construction sites, unless the site is otherwise exempt under subsection (a)(2).
 - (2) A post-construction site that meets any of the criteria in this paragraph is exempt from the requirements of this chapter.
 - a. One- and two-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one acre of disturbance.
 - b. Nonpoint discharges from agricultural activity areas.
 - c. Nonpoint discharges from silviculture activities.
 - d. Mill and crush operations.
 - (3) Notwithstanding the applicability requirements in subsection (a)(1), this chapter applies to post-construction sites of any size that, in the opinion of the director of public works, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- (b) Jurisdiction. This chapter applies to post-construction sites within the boundaries and jurisdiction of the City of De Pere, as well as the extraterritorial division of land subject to an ordinance enacted pursuant to Wis. Stats. § 236.45(2) and (3).
- (c) Exclusions. This chapter is not applicable to activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1), but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stats. § 281.33(2).

Sec. 28-5. - Definitions.

“Adequate sod or self-sustaining vegetative cover” means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

“Administering authority” means the director of public works, empowered under Wis. Stats. §62.234, that is designated by the common council to administer this chapter.

“Agricultural activity area” means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.

“Agricultural production area” means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.

“Atlas 14” means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.

“Average annual rainfall” means a typical calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality. For purposes of this chapter, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

“Best management practice” or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

“Business day” means a day the office of the director of public works is routinely and customarily open for business.

“Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the director of public works.

“Combined sewer system” means a system for conveying both sanitary sewage and stormwater runoff.

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

“Connected imperviousness” means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

“Construction site” means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale.

“Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The Atlas 14 MSE4, 24-hour design storms for the city are: one-year, [2.2] inches; two-year, [2.5] inches; five-year, [3.3] inches; ten-year, [3.8] inches; 25-year, [4.4] inches; and 100-year, [5.3] inches.

“Development” means residential, commercial, industrial, institutional, or other land uses and associated roads.

“Direct conduits to groundwater” means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

“Division of land” means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a five-year period.

“Effective infiltration area” means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

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

“Exceptional resource waters” means waters listed in § NR 102.11, Wis. Adm. Code.

“Extraterritorial” means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

“Filtering Layer” means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot deep layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.

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

“Financial guarantee” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the director of public works by the responsible party to assure that requirements of this chapter are carried out in compliance with the stormwater management plan.

“Governing body” means the common council.

“Highway” has the meaning given in Wis. Stats. § 340.01 (22).

“Highway reconditioning” has the meaning given in Wis. Stats. § 84.013 (1)(b).

“Highway reconstruction” has the meaning given in Wis. Stats. § 84.013(1)(c).

“Highway resurfacing” has the meaning given in Wis. Stats. § 84.013(1)(d).

“Impervious surface” means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed to encourage infiltration.

“In-fill area” means a new development area less than five acres in size that is located within existing urban sewer service areas, surrounded by already existing development or existing development and natural or manmade features where development cannot occur.

“Infiltration” means the entry of precipitation or runoff into or through the soil.

“Infiltration system” means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

“Land disturbing construction activity (or disturbance)” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

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

“Maintenance agreement” means a legal document that provides for long-term maintenance of stormwater management and best management practices.

“MEP” or “maximum extent practicable” means the highest level of performance that is achievable but is not equivalent to a performance standard identified within this ordinance. Maximum extent practicable applies when the permit applicant demonstrates to the director of public works’ satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the permit applicant shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

“Minor reconstruction of a highway” means reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening.

“New development” means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

“NRCS MSE3 or MSE4 distribution” means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.

“Offsite” means located outside the property boundary described in the permit application.

“Onsite” means located within the property boundary described in the permit application.

“Ordinary high-water mark” has the meaning given in § NR 115.03(6), Wis. Adm. Code.

“Outstanding resource waters” means waters listed in § NR 102.10, Wis. Adm. Code.

“Percent fines” means the percentage of a given sample of soil, which passes through a # 200 sieve.

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

“Permit” means a written authorization made by the director of public works to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

“Permit administration fee” means a sum of money paid to the director of public works by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

“Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

“Pollutant” has the meaning given in Wis. Stats. § 283.01(13).

“Pollution” has the meaning given in Wis. Stats. § 281.01(10).

“Post-construction site” means a construction site following the completion of land disturbing construction activity and final site stabilization.

“Post-development” means the extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.

“Pre-development condition” means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

“Preventive action limit” has the meaning given in § NR 140.05(17), Wis. Adm. Code.

“Protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.

“Redevelopment” means that portion of a post-construction site where impervious surfaces are being reconstructed, replaced, or reconfigured. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the pre-development condition is classified as redevelopment. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

“Responsible party” means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMPs.

“Routine maintenance” means that portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower one-half of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower one-half of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

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

“Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff.
- (2) Is not part of a combined sewer system.
- (3) Is not draining to a stormwater treatment device or system.
- (4) Discharges directly or indirectly to waters of the state.

“Silviculture activity” means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

“Site” means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

“Stop-work order” means an order issued by the director of public works which requires that all construction activity on the site be stopped.

“Stormwater management plan” means a comprehensive plan designed to reduce the discharge of pollutants from stormwater, after the site has undergone final stabilization, following completion of the construction activity.

“Stormwater management system plan” is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

“Stormwater reference guide” means the Stormwater Reference Guide, Current Edition, which is available for inspection from the city engineer and available on the City website.

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

“Top of the channel” means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

“Total maximum daily load” or “TMDL” means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

“TP” means Total Phosphorous.

“TP-40” means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.

“TR-55” means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

“Transportation facility” means a public street, a public road, a public highway, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under Wis. Stats. § 85.095(1)(b).

“TSS” means total suspended solids.

“Type II distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. The type II curve is applicable to all of the state and represents the most intense storm pattern.

“Waters of the state” has the meaning given in Wis. Stats. § 283.01 (20).

Sec. 28-6. - Technical standards.

The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, and fueling/vehicle maintenance components of stormwater practices needed to meet the water quality standards of this chapter:

- (a) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (b) Technical standards and guidance identified within the Stormwater Reference Guide.
- (c) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the director of public works.
- (d) In this chapter, the following year and location has been selected as average annual rainfall: Green Bay, 1969 (Mar. 29—Nov. 25).

Sec. 28-7. - Performance standards.

- (a) Responsible party. The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.
- (b) Stormwater Management Plan. A written stormwater management plan in accordance with this section shall be developed and implemented for each post-construction site.
- (c) Requirements. The stormwater management plan shall meet the following minimum requirements to the maximum extent practicable:
 - (1) Total suspended solids. BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows. The total suspended solids reduction shall be based on the average annual rainfall, as compared to no runoff management controls.
 - a. For post-construction sites with one or more of the following::
 - 1. 20,000 square feet or more of impervious surface disturbance and/or creation
 - 2. Post construction sites with 1 acre or more of land disturbance the following is required:
 - (i.) Reduce the total suspended solids load by 80 percent for infill and new development.
 - (ii.) Reduce the total suspended solids load by 40 percent for redevelopment.
 - (iii.) No total suspended solids load reduction is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed water quality BMP.
 - b. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce the total suspended solids load using BMPs from the city stormwater reference guide. These sites are not required to satisfy a numeric performance standard.
 - c. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date February 3, 2009 of this chapter are required to satisfy the performance standards within subsections(c)(1)a. 2i—iii.
 - d. The amount of total suspended solids control previously required for the site shall not be reduced as a result of the proposed development or disturbance.

- e. Off-Site Drainage. When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.
- f. Notwithstanding subsections (c)(1)a—d., if the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.
- g. For redevelopment in the Lower Fox River Subbasin, an incentive is available for additional treatment of total suspended solids and total phosphorous as follows:

Watershed	Redevelopment		Routine Maintenance	
	TSS	TP	TSS	TP
Lower Fox River				
	80%	30%	80%	30%

For sites that meet both the TSS and TP Additional reductions, the annual stormwater management fee will be reduced by 50%. Documentation requirements can be found in the Stormwater Reference Guide.

- (2) Peak discharge. BMPs shall be designed, installed and maintained to control peak discharges from the post-construction site as follows:
 - a. For post-construction sites with one or more of the following:
 - 1. 20,000 square feet or more of impervious surface disturbance and/or creation
 - 2. Post construction sites with 1 acre or more of land disturbance the following is required:
 - (i.) The peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the one year, two-year, ten-year, and 100-year, 24-hour design storms. These peak discharge requirements apply to new development and redevelopment areas. No peak discharge control is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed peak flow control facility.
 - (ii.) TR-55 methodology shall be used for peak discharge calculations, unless the administering authority approves an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. Peak pre-development discharge rates shall be determined using the following "meadow" runoff curve numbers:

Maximum Pre-Development Runoff Curve Numbers—Meadow				
Hydrologic soil group	A	B	C	D
Runoff curve number	30	58	71	78

- b. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce peak post-development discharge rates using BMPs from the city

stormwater reference guide. These sites are not required to satisfy a numeric performance standard.

- c. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date February 3, 2009 of this chapter are required to satisfy the performance standards within subsection (c)(2)a. 2i-ii.
 - d. The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
 - e. An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of non-erosive discharge velocities and reasonable downstream conveyance.
 - f. Exemptions. The following transportation facilities are not required to meet the peak discharge requirements of subsection (c)(2) provided the transportation facility is not part of a larger common plan of development or sale:
 - 1. A transportation facility where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving surface water by more than 0.01 of a foot for the two-year, 24-hour storm event.
 - 2. A highway reconstruction site.
 - 3. A transportation facility that is part of a redevelopment project.
- (3) Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following, except as provided in subsections (c)(3)h—k.
- a. For post construction sites with one or more of the following:
 - 1. 20,000 square feet or more of impervious surface disturbance and/or
 - 2. Post-construction sites with one acre or more of land disturbance one of the following shall be met:
 - (i.) Low imperviousness. For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volumes, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.
 - (ii.) Moderate imperviousness. For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.
 - (iii.) High imperviousness. For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

- b. Predevelopment condition shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the administering authority. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the following runoff curve numbers shall be used:

Maximum Pre-Development Runoff Curve Numbers—Cropland				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	55	69	78	83

- c. For residential and non-residential developments with less than 20,000 square feet of new impervious surfaces, infiltrate runoff volume using BMPs from the stormwater reference guide. These sites are not required to satisfy a numeric performance standard.
- d. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date February 3, 2009 of this chapter are required to satisfy the performance standards within subsections 28-7(c)(3)a—b.
- e. The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- f. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection [(c)(3)n.]. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- g. Source Area Prohibitions. Infiltration of runoff from the following areas are prohibited from meeting the infiltration requirements of this subsection [(c)(3)]:
1. Areas associated with tier 1 industrial facilities identified in § NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
 2. Storage and loading areas of tier 2 industrial facilities identified in § NR 216.21(2)(b), Wis. Adm. Code.
 3. Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.
- h. Prohibitions.
1. Areas within 1,000 feet upgradient or within 100 feet downgradient of karst features.
 2. Areas within 400 feet of a community water system well as specified in § NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in § NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
 3. Areas where contaminants of concern, as defined in § NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.
- i. Source Area Exemptions. Infiltration of runoff from the following areas are not required to meet the infiltration requirements of subsection (c)(3):
1. Parking areas and access roads less than 5,000 square feet for commercial development.

2. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the prohibitions under this subsection (c)(3)g.
 3. Redevelopment and routine maintenance areas.
 4. In-fill areas less than five acres.
 5. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
 6. Highways provided the transportation facility is not part of a larger common plan of development or sale.
- j. Separation Distances.

1. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with the table below:

Separation Distances and Soil Characteristics		
Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltrations Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

2. Notwithstanding par.1., applicable requirements for injection wells classified under ch. NR 815 shall be followed.
- k. Infiltration Rate Exemption. Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is optional:
1. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.
 2. Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.
- l. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.
- m. Groundwater Standards.
1. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to

groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

2. Notwithstanding par. 1., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
 - n. Pretreatment. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial, and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection (c)(3)m.
 - o. Maximum Extent Practicable. Where the conditions of subsection (c)(3)g.,h., and i. limit or restrict the use of infiltration practices, the performance standard of this subsection (c)(3) shall be met to the maximum extent practicable.
- (4) Protective areas.
- a. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
 1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in § NR 103.04, 75 feet.
 2. For perennial and intermittent streams identified on a United States Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
 3. For lakes, 50 feet.
 4. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins.
 5. For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass, cultivated hydric soils, and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
 6. In subsections (c)(4)a.1,4, and 5. determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in § NR 103.03.
 7. Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with § NR 103.08(1m). This [subsection (c)(4)] does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.
 8. For concentrated flow channels with drainage areas greater than 130 acres, ten feet.

9. Notwithstanding pars. 1. To 8., the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.
- b. Subsection (c)(4) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection (c)(4)e. below.
- c. The following requirements shall be met:
 1. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
 2. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

Note to users: It is recommended that seeding of non-invasive vegetative cover be used in the protective areas. Some invasive plants that should not be used are listed in ch. NR 40, Wis. Adm. Code. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover can be measured using the line transect method described in the University of Wisconsin Extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".

3. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

Note to Users: Other laws, such as ch. 30, Wis. Stats., and chs. NR 103, 115, 116, and 117, Wis. Adm. Code, and their associated review and approval processes may apply in the protective area.

- d. A protective area established or created after the adoption date [Insert adoption date] of this chapter shall not be eliminated or reduced, except as allowed in subsections (c)(4)e.2—4. below.
- e. Exemptions. The following areas are not required to meet the protective area requirements of subsection (c)(4):
 1. Redevelopment and routine maintenance areas provided the minimum requirements within in [subsection (c)(4)e.] above are satisfied.
 2. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 3. Structures constructed in accordance with Wis. Stats. § 59.692(1v).
 4. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note to users: A vegetated protective area to filter runoff pollutants from post-construction sites described in subsection (c)(4)e.4. is not necessary since runoff is not entering the surface water at that location. Other practices, necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants before the runoff enters a surface water of the state.

- (5) Fueling and vehicle maintenance areas. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce

petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

Note to users: A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

- (6) Swale treatment for transportation facilities. Subsection (c)(6) is not applicable to transportation facilities that are part of a larger common plan of development or sale.

- a. Requirement. Except as provided in [subsection (c)(6)b.], transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

1. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

Note to users: It is preferred that tall and dense vegetation be maintained within the swale due to its greater effectiveness at enhancing runoff pollutant removal.

2. Swales shall comply with sections V.F. (Velocity and Depth) and V.G. (Slope Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 "Vegetated Infiltration Swales", dated May 2007, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.

Note to users: Check dams may be included in the swale design to slow runoff flows and improve pollutant removal. Transportation facilities with continuous features such as curb and gutter, sidewalks or parking lanes do not comply with the design requirements of this paragraph. However, a limited amount of structural measures such as curb and gutter may be allowed as necessary to account for other concerns such as human safety or resource protection.

- b. Exemptions. The director of public works may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:

1. An outstanding resource water.
2. An exceptional resource water.
3. Waters listed in § 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.
4. Waters where targeted performance standards are developed under § NR 151.004, Wis. Adm. Code, to meet water quality standards.

Note to users: The transportation facility authority shall contact the Wisconsin Department of Natural Resource's regional storm water staff or the Wisconsin Department of Natural Resource's liaison to the Wisconsin Department of transportation to determine if additional BMPs beyond a water quality swale are needed under this subsection.

- (7) Exemptions. The following areas are not required to meet the performance standards within subsection (c) of this section:

- a. Agricultural production areas with less than 100,000 square feet of impervious surface disturbance.

- b. Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
- c. The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale.
 - 1. Reconditioning or resurfacing of a highway.
 - 2. Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements within NR 151.24(6) Wisconsin Administrative Code apply to minor reconstruction of a highway.
 - 3. A redevelopment transportation facility with no increase in exposed parking lots or roads.
 - 4. A transportation facility with less than ten percent connected imperviousness based on complete development of the transportation facility, provided the cumulative area of all parking lots and rooftops is less than one acre.
 - 5. Routine maintenance for transportation facilities if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
 - 6. Routine maintenance if performed for storm water conveyance system cleaning.
- (d) General considerations for onsite and offsite stormwater management measures. The following considerations shall be observed in managing runoff:
 - (1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
 - (2) Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (e) Location and regional treatment option.
 - (1) The BMPs may be located onsite or offsite as part of a regional stormwater device, practice or system.
 - (2) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this chapter. Post-construction BMPs may be located in non-navigable surface waters.
 - (3) Except as allowed under subsection [(e)(4)], post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
 - (4) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this chapter if:
 - a. The BMP was constructed prior to the effective date of this chapter and the BMP either received a permit issued under Wis. Stats. ch. 30 or the BMP did not require a Wis. Stats. ch. 30 permit; and
 - b. The BMP is designed to provide runoff treatment from future upland development.
 - (5) Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.
 - a. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.

- b. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and Wis. Stats. ch. 30.
- (6) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.

Note to users: This section does not supersede any other applicable federal, state or local regulation such as ch. NR 103, Wis. Adm. Code and Wis. Stats. ch. 30.

- (7) The director of public works may approve off-site management measures provided that all of the following conditions are met:
 - a. The director of public works determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the department of public works and that contains management requirements consistent with the purpose and intent of this chapter.
 - b. The offsite facility meets all of the following conditions:
 - 1. The facility is in place.
 - 2. The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this chapter.
 - 3. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
- (8) Where a regional treatment option exists such that the director of public works exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the director of public works. In determining the fee for post-construction runoff, the director of public works shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
- (f) Alternate requirements. The director of public works may establish stormwater management requirements more stringent than those set forth in this section if the director of public works determines that an added level of protection is needed to protect sensitive resources. Also, the director of public works may establish stormwater management requirements less stringent than those set forth in this section if the director of public works determines that less protection is needed to protect sensitive resources and provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by the state department of natural resources under NR 151 Wisconsin Administrative Code.

Sec. 28-8. - Permitting requirements, procedures and fees.

- (a) Permit required. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the director of public works prior to commencing the proposed activity.
- (b) Permit application and fees. Unless specifically excluded by this chapter, any responsible party desiring a permit shall submit to the director of public works a permit application made on a form provided by the director of public works for that purpose.
 - (1) Unless otherwise excepted by this chapter, a permit application must be accompanied by a stormwater management plan, a maintenance agreement and a non-refundable permit administration fee.
 - (2) The stormwater management plan shall be prepared to meet the requirements of sections 28-7 and 28-9 of this chapter, the maintenance agreement shall be prepared to meet the

requirements of section 28-10 of this chapter, the financial guarantee shall meet the requirements of section 28-11, and fees shall be those established by the common council as set forth in section 28-12 of this chapter.

- (c) Review and approval of permit application. The director of public works shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
 - (1) Within 20 business days of the receipt of a complete permit application, including all items as required by subsection (b)(2), the director of public works shall inform the applicant whether the application, stormwater management plan and maintenance agreement are approved or disapproved based on the requirements of this chapter.
 - (2) If the stormwater permit application, stormwater management plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the director of public works shall issue the permit.
 - (3) If the stormwater permit application, stormwater management plan or maintenance agreement is disapproved, the director of public works shall detail in writing the reasons for disapproval.
 - (4) The director of public works may request additional information from the applicant. If additional information is submitted, the director of public works shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - (5) Failure by the director of public works to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (d) Permit requirements. All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter shall be deemed to have accepted these conditions. The director of public works may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the director of public works to suspend or revoke this permit may be appealed in accordance with section 28-14 of this chapter.
 - (1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
 - (2) The responsible party shall design and install all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and this permit.
 - (3) The responsible party shall notify the director of public works at least 10 business days before commencing any work in conjunction with the stormwater management plan, and within 10 business days upon completion of the stormwater management practices. If required as a special condition under subsection (e), the responsible party shall make additional notification according to a schedule set forth by the director of public works so that practice installations can be inspected during construction.
 - (4) Practice installations required as part of this chapter shall be certified as "record" drawings by a licensed professional engineer. Completed stormwater management practices must pass a final inspection by the director of public works or its designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The director of public works or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
 - (5) The responsible party shall notify the director of public works of any significant modifications it intends to make to an approved stormwater management plan. The director of public works may require that the proposed modifications be submitted to it for approval prior to incorporation into the stormwater management plan and execution by the responsible party.

- (6) The responsible party shall maintain all stormwater management practices in accordance with the stormwater management plan until the practices either become the responsibility of the common council, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (7) The responsible party authorizes the director of public works to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under Wis. Stats. ch. 66, subch. VII, or to charging such costs against the financial guarantee posted under section 28-11 of this chapter.
- (8) If so directed by the director of public works, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
- (9) The responsible party shall permit property access to the director of public works or its designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
- (10) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the director of public works may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
- (11) The responsible party is subject to the enforcement actions and penalties detailed in section 28-13 of this chapter, if the responsible party fails to comply with the terms of this permit.
- (12) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.
- (e) Permit conditions. Permits issued under this subsection may include conditions established by director of public works in addition to the requirements needed to meet the performance standards in section 28-7 of this chapter or a financial guarantee as provided for in section 28-11 of this chapter.
- (f) Permit duration. Permits issued under this section shall be valid from the date of issuance through the date the director of public works notifies the responsible party that all stormwater management practices have passed the final inspection required under subsection (d)(4).
- (g) Alternate requirements. The director of public works may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under subsection 28-7(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 28-9. - Stormwater management plan.

- (a) Plan requirements. The stormwater management plan required under subsection 28-8(b) shall comply with the city stormwater reference guide and contain at a minimum the following information:
 - (1) Name, address, and telephone number of the landowner and responsible parties.
 - (2) A legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
 - (3) Pre-development site map with property lines, disturbed limits, and drainage patterns.
 - (4) Post-development site map with property lines, disturbed limits, and drainage patterns.
 - a. Total area of disturbed impervious surfaces within the site.
 - b. Total area of new impervious surfaces within the site.

- c. Performance standards applicable to site.
 - d. Proposed best management practices.
 - e. Groundwater, bedrock, and soil limitations.
 - f. Separation distances. Stormwater management practices shall be adequately separated from wells to prevent contamination of drinking water.
- (b) Alternate requirements. The director of public works may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under subsection 28-7(c) or for applicants seeking a permit for a postconstruction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 28-10. - Maintenance agreement.

- (a) Maintenance agreement required. The maintenance agreement required under subsection 28-8(b) for stormwater management practices shall be an agreement between the director of public works and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance agreement shall be filed with the county register of deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.
- (b) Agreement provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the management plan required by subsection 28-9(a):
- (1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
 - (2) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under subsection 28-8(b).
 - (3) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the stormwater management practices identified in the stormwater management plan required under subsection 28-8(b).
 - (4) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in subsection (b)(2) of this section.
 - (5) Authorization for the director of public works to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - (6) A requirement on the director of public works to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.
 - (7) Agreement that the party designated under subsection (b)(3) of this section, as responsible for long term maintenance of the stormwater management practices, shall be notified by the director of public works of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the director of public works.
 - (8) Authorization of the director of public works to perform the corrected actions identified in the inspection report if the responsible party designated under subsection (b)(3) does not make the required corrections in the specified time period. The director of public works shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stats. ch. 66, subch. VII.

- (c) Alternate requirements. The director of public works may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 28-7(c) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 28-11. - Financial guarantee.

- (a) Establishment of the guarantee. The director of public works may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the director of public works. The financial guarantee shall be in an amount determined by the director of public works to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the director of public works the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the director of public works that the requirements of this chapter have not been met.
- (b) Conditions for release. Conditions for the release of the financial guarantee are as follows:
 - (1) The director of public works shall release the portion of the financial guarantee established under this section, less any costs incurred by the director of public works to complete installation of practices, upon submission of "record" drawings by a licensed professional engineer. The director of public works may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - (2) The director of public works shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater practices, less any costs incurred by the director of public works, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.
- (c) Alternate requirements. The director of public works may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under subsection 28-7(c) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 28-12. - Fee schedule.

The fees referred to in this chapter shall be established by resolution of the common council. A schedule of the fees so established shall be available for review in the office of the director of public works or city clerk-treasurer.

Sec. 28-13. - Enforcement.

- (a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this chapter by any person, firm, association, or corporation subject to this chapter's provisions shall be deemed a violation unless conducted in accordance with the requirements of this chapter.
- (b) The director of public works shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.

- (c) Upon receipt of written notification from the director of public works under subsection (b), the responsible party shall correct work that does not comply with the stormwater management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the director of public works in the notice.
- (d) If the violations to a permit issued pursuant to this chapter are likely to result in damage to properties, public facilities, or waters of the state, the director of public works may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the director of public works plus interest and legal costs shall be billed to the responsible party.
- (e) The director of public works is authorized to post a stop-work order on all land disturbing construction activity that is in violation of this chapter, or to request the city attorney to obtain a cease and desist order in any court with jurisdiction.
- (f) The director of public works may revoke a permit issued under this chapter for non-compliance with chapter provisions.
- (g) Any permit revocation, stop-work order, or cease and desist order shall remain in effect unless retracted by the director of public works or by a court with jurisdiction.
- (h) The director of public works is authorized to refer any violation of this chapter, or of a stop work order or cease and desist order issued pursuant to this chapter, to the city attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (i) Any person, firm, association, or corporation who does not comply with the provisions of this chapter shall be subject to a forfeiture of not less than \$200.00 or more than \$1,000.00 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (j) Compliance with the provisions of this chapter may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (k) When the director of public works determines that the holder of a permit issued pursuant to this chapter has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the director of public works or a party designated by the director of public works may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The director of public works shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to section 28-11 of this chapter. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon.

Sec. 28-14. - Appeals.

- (a) Board of appeals. The board of appeals, created pursuant to § 14.21 of the city zoning ordinance pursuant to Wis. Stats § 62.23(7)(e), shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the director of public works in administering this chapter. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this chapter that are not contrary to the public interest, and where owing to special conditions a literal enforcement of this chapter will result in unnecessary hardship.
- (b) Who may appeal. Appeals to the board of appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the city affected by any decision of the director of public works.

Sec. 28-15. - Severability.

If any section, clause, provision or portion of this chapter is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall remain in force and not be affected by such judgment.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall take effect upon its passage and publication.

Adopted by the Common Council of the City of De Pere, Wisconsin, this 4th day of October, 2016.

APPROVED:

Michael J. Walsh, Mayor

ATTEST:

Shana D. Ledvina, Clerk-Treasurer

Ayes: _____

Nays: _____

Board/Committee Approval: BOPW 9/12/16; Plan Commission 9/26/16

Publication Date: _____

Effective Date: _____

Publish: September 20 and September 27, 2016 in the Green Bay Press-Gazette (Class 2 Notice)

NOTICE OF PUBLIC HEARING

Notice is Hereby given, that on **Tuesday, October 4, 2016** at 7:35 PM or as soon thereafter as can be heard in the Council Chambers of the De Pere City Hall, 335 S. Broadway St, De Pere, WI, a public hearing will be held by the Common Council of the City of De Pere to act on the repeal and recreation of Chapter 28, De Pere Municipal Code regarding Stormwater Management Zoning (Post Construction) regulation under Wis. Stats. §62.234.

A copy of the proposed ordinance is available through the City Attorney's Office, at 335 S. Broadway St., De Pere, WI 54115.

Dated this 20th day of September, 2016.

BY ORDER OF THE COMMON COUNCIL

Michael J. Walsh
Mayor

Shana Ledvina
City Clerk-Treasurer

Chapter 28 De Pere Municipal Code STORMWATER MANAGEMENT ZONING (POST CONSTRUCTION) as compared to model DNR Ordinance

Sec. 28-1. - Authority.

- (a) This chapter is adopted by the common council under the authority granted by Wis. Stats. § 62.234. This chapter supersedes all provisions of an ordinance previously enacted that relate to stormwater management regulations. Except as otherwise specified in Wis. Stats. § 62.234, Wis. Stats. § 62.23 applies to this chapter and to any amendments to this chapter.
- (b) The provisions of this chapter are deemed not to limit any other lawful regulatory powers of the same governing body.
- (c) The common council hereby designates the director of public works or designee to administer and enforce the provisions of this chapter.
- (d) The requirements of this chapter do not pre-empt more stringent stormwater management requirements that may be imposed by any of the following:
 - (1) The state department of natural resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.
 - (2) Targeted non-agricultural performance standards promulgated in rules by the state department of natural resources under § NR 151.004, Wis. Adm. Code.

Sec. 28-2. - Findings of fact.

The common council finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (a) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (d) Reduce the quality of groundwater by increasing pollutant loading.
- (e) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- (f) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- (g) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

Sec. 28-3. - Purpose and intent.

- (a) Purpose. The general purpose of this chapter is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:
 - (1) Further the maintenance of safe and healthful conditions.

- (2) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
- (3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(4) Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.

- (b) Intent. It is the intent of the common council that this chapter regulates post-construction stormwater discharges to waters of the state. This chapter may be applied on a site-by-site basis. The common council recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this chapter is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Wis. Stats. § 281.16, for regional stormwater management measures and have been approved by the common council, it is the intent of this chapter that the approved plan be used to identify post-construction management measures acceptable for the community.

Sec. 28-4. - Applicability and jurisdiction.

(a) Applicability.

- (1) Where not otherwise limited by law, this chapter applies to all post-construction sites, unless the site is otherwise exempt under subsection (a)(2).
- (2) A post-construction site that meets any of the criteria in this paragraph is exempt from the requirements of this chapter.
 - a. One- and two-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one acre of disturbance.
 - b. Nonpoint discharges from agricultural activity areas.
 - c. Nonpoint discharges from silviculture activities.
 - d. Mill and crush operations.
- (3) Notwithstanding the applicability requirements in subsection (a)(1), this chapter applies to post-construction sites of any size that, in the opinion of the director of public works, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

- (b) Jurisdiction. This chapter applies to post-construction sites within the boundaries and jurisdiction of the City of De Pere, as well as the extraterritorial division of land subject to an ordinance enacted pursuant to Wis. Stats. § 236.45(2) and (3).

- (c) Exclusions. This chapter is not applicable to activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1), but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stats. § 281.33(2).

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Sec. 28-5. - Definitions.

"Adequate sod or self-sustaining vegetative cover" means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

"Administering authority" means the director of public works.

"Agricultural activity area" means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.

Agricultural production area means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this chapter, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

"Atlas 14" means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.

"Average annual rainfall" means a typical calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality. For purposes of this chapter, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

"Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

"Business day" means a day the office of the director of public works is routinely and customarily open for business.

"Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the director of public works.

"Combined sewer system" means a system for conveying both sanitary sewage and stormwater runoff.

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

"Connected imperviousness" means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

"Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale.

"Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The ~~TR-55, Type II, Atlas 14 MSE4~~, 24-hour design storms for the city are: one-year, [2.2] inches; two-year, [2.5] inches; five-year, [3.3] inches; ten-year, [3.8] inches; 25-year, [4.4] inches; and 100-year, [5.3] inches.

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"Development" means residential, commercial, industrial, institutional, or other land uses and associated roads.

"Direct conduits to groundwater" means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

"Division of land" means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a five-year period.

"Effective infiltration area" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

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

"Exceptional resource waters" means waters listed in § NR 102.11, Wis. Adm. Code.

"Extraterritorial" means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

"Filtering Layer" means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot deep layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.

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

"Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the director of public works by the responsible party to assure that requirements of ~~this chapter~~ are carried out in compliance with the stormwater management plan.

"Governing body" means the common council.

"Highway" has the meaning given in Wis. Stats. § 340.01 (22).

"Highway reconditioning" has the meaning given in Wis. Stats. § 84.013 (1)(b).

"Highway reconstruction" has the meaning given in Wis. Stats. § 84.013(1)(c).

"Highway resurfacing" has the meaning given in Wis. Stats. § 84.013(1)(d).

"Impervious surface" means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed to encourage infiltration.

"In-fill area" means a new development area less than five acres in size that is located within existing urban sewer service areas, surrounded by already existing development or existing development and natural or manmade features where development cannot occur.

"Infiltration" means the entry of precipitation or runoff into or through the soil.

"Infiltration system" means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

~~"Karst feature" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.~~

“Land disturbing construction activity (or disturbance)” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

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

“Maintenance agreement” means a legal document that provides for long-term maintenance of stormwater management and best management practices.

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

“MEP” or “maximum extent practicable” means the highest level of performance that is achievable but is not equivalent to a performance standard identified within this ordinance. Maximum extent practicable applies when the permit applicant demonstrates to the director of public works'administering authority's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the permit applicant shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

“Minor reconstruction of a highway” means reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening.

“New development” means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

“NRCS MSE3 or MSE4 distribution” means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.

“Offsite” means located outside the property boundary described in the permit application.

“Onsite” means located within the property boundary described in the permit application.

“Ordinary high-water mark” has the meaning given in § NR 115.03(6), Wis. Adm. Code.

“Outstanding resource waters” means waters listed in § NR 102.10, Wis. Adm. Code.

“Percent fines” means the percentage of a given sample of soil, which passes through a # 200 sieve.

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

“Permit” means a written authorization made by the director of public works to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

“Permit administration fee” means a sum of money paid to the director of public works by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

“Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

“Pollutant” has the meaning given in Wis. Stats. § 283.01(13).

“Pollution” has the meaning given in Wis. Stats. § 281.01(10).

“Post-construction site” means a construction site following the completion of land disturbing construction activity and final site stabilization.

“Post-development” means the extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.

“Pre-development” means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

“Preventive action limit” has the meaning given in § NR 140.05(17), Wis. Adm. Code.

“Protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, that that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.

“Redevelopment” means that portion of a post-construction site where impervious surfaces are being reconstructed, replaced, or reconfigured. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the pre-development condition is classified as redevelopment. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

“Responsible party” means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMPs.

“Routine maintenance” means that portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower one-half of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower one-half of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

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

“Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff.
- (2) Is not part of a combined sewer system.
- (3) Is not draining to a stormwater treatment device or system.
- (4) Discharges directly or indirectly to waters of the state.

“Silviculture activity” means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

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"Site" means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

"Stop-work order" means an order issued by the director of public works which requires that all construction activity on the site be stopped.

"Stormwater management plan" means a comprehensive plan designed to reduce the discharge of pollutants from stormwater, after the site has undergone final stabilization, following completion of the construction activity.

"Stormwater management system plan" is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

"Stormwater reference guide" means the Stormwater Reference Guide, Current Edition, of August 15, 2007, as amended from time to time and which is available for inspection from the office of the building inspector and city engineer and available on the City website.

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

"Top of the channel" means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

"Total maximum daily load" or "TMDL" means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

"TP" means Total Phosphorous.

"TP-40" means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.

"TR-55" means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

"Transportation facility" means a public street, a public road, a public highway, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under Wis. Stats. § 85.095(1)(b).

"TSS" means total suspended solids.

"Type II distribution" means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973". The type II curve is applicable to all of the state and represents the most intense storm pattern.

"Waters of the state" has the meaning given in Wis. Stats. § 2813.01 (1820).

Sec. 28-6. - Technical standards.

The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, and fueling/vehicle maintenance components of stormwater practices needed to meet the water quality standards of this chapter:

- Technical standards identified, developed or disseminated by the state Wisconsin ~~d~~Department of ~~n~~Natural ~~r~~Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- Technical standards and guidance identified within the sStormwater ~~r~~Reference gGuide.

- (c) Where technical standards have not been identified or developed by the ~~state~~Wisconsin Department of ~~Natural Resources~~, other technical standards may be used provided that the methods have been approved by the director of public works.
- (d) In this chapter, the following year and location has been selected as average annual rainfall: Green Bay, 1969 (Mar. 29—Nov. 25).

Sec. 28-7. - Performance standards.

- (a) Responsible party. The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.
- (b) Stormwater Management Plan. A written stormwater management plan in accordance with this section shall be developed and implemented for each post-construction site.
- (c) Requirements. The stormwater management plan shall meet the following minimum requirements to the maximum extent practicable:

- (1) Total suspended solids. BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows. The total suspended solids reduction shall be based on the average annual rainfall, as compared to no runoff management controls.

- a. For post-construction sites with ~~one or more of the following: 20,000 square feet or more of impervious surface disturbance and post-construction sites with one acre or more of land disturbance,~~

* 20,000 square feet or more of impervious surface disturbance and/or creation

* post construction sites with 1 acre or more of land disturbance

the following is required:

- 1. Reduce the total suspended solids load by 80 percent for infill and new development.
- 2. Reduce the total suspended solids load by 40 percent for redevelopment.
- 3. No total suspended solids load reduction is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed water quality BMP.
- b. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce the total suspended solids load using BMPs from the city stormwater reference guide. These sites are not required to satisfy a numeric performance standard.
- c. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date February 3, 2009 of this chapter are required to satisfy the performance standards within subsections(c)(1)a.1—3.
- d. The amount of total suspended solids control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- e. Off-Site Drainage. When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

fe. Notwithstanding subsections (c)(1)a—d., if the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

(2) Peak discharge. BMPs shall be designed, installed and maintained to control peak discharges from the post-construction site as follows:

a. For post-construction sites with ~~one or more of the following: 20,000 square feet or more of impervious surface disturbance and post-construction sites with one acre or more of land disturbance,~~

* 20,000 square feet or more of impervious surface disturbance and/or creation

* post construction sites with 1 acre or more of land disturbance

the following is required:

1. The peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the one year, two-year, ten-year, and 100-year, 24-hour design storms. These peak discharge requirements apply to new development and redevelopment areas. No peak discharge control is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed peak flow control facility.
2. TR-55 methodology shall be used for peak discharge calculations, unless the administering authority approves an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. Peak pre-development discharge rates shall be determined using the following "meadow" runoff curve numbers:

Maximum Pre-Development Runoff Curve Numbers—Meadow				
Hydrologic soil group	A	B	C	D
Runoff curve number	30	58	71	78

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- b. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce peak post-development discharge rates using BMPs from the city stormwater reference guide. These sites are not required to satisfy a numeric performance standard.
- c. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date February 3, 2009 of this chapter are required to satisfy the performance standards within subsection (c)(2)a.1, 2.
- d. The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- e. An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of non-erosive discharge velocities and reasonable downstream conveyance.

- f. Exemptions. The following transportation facilities are not required to meet the peak discharge requirements of subsection (c)(2) provided the transportation facility is not part of a larger common plan of development or sale:
1. A transportation facility where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving surface water by more than 0.01 of a foot for the two-year, 24-hour storm event.
 2. A highway reconstruction site.
 3. A transportation facility that is part of a redevelopment project.
- (3) Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following, except as provided in subsections (c)(3)h—k.
- a. For ~~residential developments~~ post construction sites with one or more of the following:
- * 20,000 square feet or more of impervious surface disturbance and/or
 - * residential developmentspost-construction sites with one acre or more of land disturbance
- ~~one~~ one of the following shall be met:
1. Low imperviousness. For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volumes, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.~~Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.~~
 2. Moderate imperviousness. For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.~~Infiltrate 25 percent of the post-development runoff from the two-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.~~
 2. High imperviousness. For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.
- b. ~~For non-residential developments with 20,000 square feet or more of impervious surface disturbance and non-residential developments with one acre or more of land disturbance,~~

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including commercial, industrial and institutional development, one of the following shall be met:

- ~~1. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.~~
- ~~2. Infiltrate ten percent of the runoff from the two-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.~~
- ~~eb.~~ Predevelopment condition shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the administering authority. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the following runoff curve numbers shall be used:

Maximum Pre-Development Runoff Curve Numbers—Cropland				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	565	70-69	7978	83

- ~~ec.~~ For residential and non-residential developments with less than 20,000 square feet of new impervious surfaces, infiltrate runoff volume using BMPs from the stormwater reference guide. These sites are not required to satisfy a numeric performance standard.
- ~~ed.~~ Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date February 3, 2009 of this chapter are required to satisfy the performance standards within subsections 28-7(c)(3)a—~~eb.~~
- ~~fe.~~ The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- ~~gf.~~ Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection [(c)(3)k~~n~~]. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- ~~hg.~~ Exclusions—Source Area Prohibitions. Infiltration of runoff from the following areas are prohibited from meeting the infiltration requirements of this subsection [(c)(3)]:
 1. Areas associated with tier 1 industrial facilities identified in § NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
 2. Storage and loading areas of tier 2 industrial facilities identified in § NR 216.21(2)(b), Wis. Adm. Code.
 3. Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.

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h. Prohibitions.

- ~~41.~~ Areas within 1,000 feet upgradient or within 100 feet downgradient of karst features.
 - ~~5.~~ Areas with less than three feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subsection(c)(3)h.5., does not prohibit infiltration of roof runoff.
 - ~~6.~~ Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
 - ~~72.~~ Areas within 400 feet of a community water system well as specified in § NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in § NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
 - ~~83.~~ Areas where contaminants of concern, as defined in § NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.
 - ~~9.~~ Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a three foot soil layer with 20 percent fines or greater; or at least a five foot soil layer with ten percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subsection (c)(3)h.9. does not prohibit infiltration of roof runoff.
- i. Source Area Exemptions. Infiltration of runoff from the following areas are not required to meet the infiltration requirements of subsection (c)(3):
- ~~1.~~ Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 - ~~1.~~ Parking areas and access roads less than 5,000 square feet for commercial development.
 - ~~2.~~ Parking areas and access roads less than 5,000 square feet for commercial and industrial development not subject to the prohibitions under this subsection (c)(3)g.
 - ~~3.~~ Redevelopment and routine maintenance areas.
 - ~~4.~~ In-fill areas less than five acres.
 - ~~5.~~ Infiltration areas during periods when the soil on the site is frozen.
 - ~~65.~~ Roads in commercial, industrial and institutional land uses, and arterial residential roads.
 - ~~76.~~ Highways provided the transportation facility is not part of a larger common plan of development or sale.

j. Separation Distances.

- ~~1.~~ Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with the table below:

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<u>Separation Distances and Soil Characteristics</u>		
<u>Source Area</u>	<u>Separation Distance</u>	<u>Soil Characteristics</u>
<u>Industrial, Commercial, Institutional Parking Lots and Roads</u>	<u>5 feet or more</u>	<u>Filtering Layer</u>
<u>Residential Arterial Roads</u>	<u>5 feet or more</u>	<u>Filtering Layer</u>
<u>Roofs Draining to Subsurface Infiltrations Practices</u>	<u>1 foot or more</u>	<u>Native or Engineered Soil with Particles Finer than Coarse Sand</u>
<u>Roofs Draining to Surface Infiltration Practices</u>	<u>Not Applicable</u>	<u>Not Applicable</u>
<u>All Other Impervious Source Areas</u>	<u>3 feet or more</u>	<u>Filtering Layer</u>

2. Notwithstanding par.1., applicable requirements for injection wells classified under ch. NR 815 shall be followed.

k. Infiltration Rate Exemption. Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is optional:

1. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.
2. Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.

j. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.

~~k. 1. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.~~

~~2. Notwithstanding subsection [(c)(3)a.], the discharge from BMPs shall remain below the enforcement standard at the point of standards application.~~

m. Groundwater Standards.

1. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable,

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the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

2. Notwithstanding par. 1., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

n. Pretreatment. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial, and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection (c)(3)m.

o. Maximum Extent Practicable. Where the conditions of subsection (c)(3)g.,h., and i. limit or restrict the use of infiltration practices, the performance standard of this subsection (c)(3) shall be met to the maximum extent practicable.

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(4) Protective areas.

a. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in § NR 103.04, 75 feet.
2. For perennial and intermittent streams identified on a United States Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
3. For lakes, 50 feet.
4. For highly susceptible wetlands, ~~50~~75 feet. Highly susceptible wetlands include the following types: ~~calcareous~~ fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins.
5. For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass, ~~cultivated hydric soils, and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.~~
6. In subsections (c)(4)a.1,4, and 5. determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in § NR 103.03.

~~b7.~~ Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with § NR 103.08(1m). This [subsection (c)(4)] does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

~~78.~~ For concentrated flow channels with drainage areas greater than 130 acres, ten feet.

9. Notwithstanding pars. 1. To 8., the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.

~~b. Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with S NR 103.08(1m). This [subsection (c)(4)] does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.~~

~~eb.~~ Subsection (c)(4) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection (c)(4)~~fe.~~ below.

~~ec.~~ The following requirements shall be met:

1. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
2. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

Note to users: It is recommended that seeding of non-~~aggressive~~invasive vegetative cover be used in the protective areas. Some invasive plants that should not be used are listed in ch. NR 40, Wis. Adm. Code. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover can be measured using the line transect method described in the University of Wisconsin Extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".

3. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

Note to Users: Other laws, such as ch. 30, Wis. Stats., and chs. NR 103, 115, 116, and 117, Wis. Adm. Code, and their associated review and approval processes may apply in the protective area.

~~ed.~~ A protective area established or created after the adoption date [Insert adoption date] of this chapter shall not be eliminated or reduced, except as allowed in subsections (c)(4)~~fe.~~ 2—4. below.

~~fe.~~ Exemptions. The following areas are not required to meet the protective area requirements of subsection (c)(4):

1. Redevelopment and routine maintenance areas provided the minimum requirements within in [subsection (c)(4)e.] above are satisfied.
2. Structures that cross or access surface waters such as boat landings, bridges and culverts.
3. Structures constructed in accordance with Wis. Stats. § 59.692(1v).
4. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note to users: A vegetated protective area to filter runoff pollutants from post-construction sites described in subsection (c)(4) ~~of~~ 4. is not necessary since runoff is not entering the surface water at that location. Other practices, necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants before the runoff enters a surface water of the state.

- (5) Fueling and vehicle maintenance areas. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

Note to users: A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

- (6) Swale treatment for transportation facilities. Subsection (c)(6) is not applicable to transportation facilities that are part of a larger common plan of development or sale.
 - a. Applicability Requirement. Except as provided in [subsection (c)(6)b.], transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:
 1. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

Note to users: It is preferred that tall and dense vegetation be maintained within the swale due to its greater effectiveness at enhancing runoff pollutant removal.

~~2. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a two year, 24 hour design storm or a two year storm with a duration equal to the time of concentration as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.~~

2. Swales shall comply with sections V.F. (Velocity and Depth) and V.G. (Slope Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 "Vegetated Infiltration Swales", dated May 2007, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.

Note to users: Check dams may be included in the swale design to slow runoff flows and improve pollutant removal. Transportation facilities with continuous features such as curb and gutter, sidewalks or parking lanes do not comply with the design requirements of this paragraph. However, a limited amount of structural measures such as curb and gutter may be allowed as necessary to account for other concerns such as human safety or resource protection.

- b. Exemptions. The director of public works may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:
 1. An outstanding resource water.
 2. An exceptional resource water.

3. Waters listed in § 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.
4. Waters where targeted performance standards are developed under § NR 151.004, Wis. Adm. Code, to meet water quality standards.

Note to users: The transportation facility authority shall contact the Wisconsin Department of Natural Resource's regional storm water staff or the Wisconsin Department of Natural Resource's liaison to the Wisconsin Department of transportation to determine if additional BMPs beyond a water quality swale are needed under this subsection.

- (7) Exemptions. The following areas are not required to meet the performance standards within subsection (c) of this section:

- a. Agricultural production areas with less than 100,000 square feet of impervious surface disturbance.
- b. Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
- c. The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale.
 1. Reconditioning or resurfacing of a highway.
 2. Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements within NR 151.24(6) Wisconsin Administrative Code apply to minor reconstruction of a highway.
 3. A redevelopment transportation facility with no increase in exposed parking lots or roads.
 4. A transportation facility with less than ten percent connected imperviousness based on complete development of the transportation facility, provided the cumulative area of all parking lots and rooftops is less than one acre.
 5. Routine maintenance for transportation facilities if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

6. Routine maintenance if performed for storm water conveyance system cleaning.

- (d) General considerations for onsite and offsite stormwater management measures. The following considerations shall be observed in managing runoff:
 - (1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
 - (2) Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (e) Location and regional treatment option.
 - (1) The BMPs may be located onsite or offsite as part of a regional stormwater device, practice or system.
 - (2) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this chapter. Post-construction BMPs may be located in non-navigable surface waters.
 - (3) Except as allowed under subsection [(e)(4)], post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.

- (4) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this chapter if:
 - a. The BMP was constructed prior to the effective date of this chapter and the BMP either received a permit issued under Wis. Stats. ch. 30 or the BMP did not require a Wis. Stats. ch. 30 permit; and
 - b. The BMP is designed to provide runoff treatment from future upland development.
- (5) Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.
 - a. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
 - b. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and Wis. Stats. ch. 30.
- (6) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.

Note to users: This section does not supersede any other applicable federal, state or local regulation such as ch. NR 103, Wis. Adm. Code and Wis. Stats. ch. 30.

- (7) The director of public works may approve off-site management measures provided that all of the following conditions are met:
 - a. The ~~department~~director of ~~ppublic~~ ~~Www~~works determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the department of public works and that contains management requirements consistent with the purpose and intent of this chapter.
 - b. The offsite facility meets all of the following conditions:
 - 1. The facility is in place.
 - 2. The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this chapter.
 - 3. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
- (8) Where a regional treatment option exists such that the director of public works exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the director of public works. In determining the fee for post-construction runoff, the director of public works shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
- (f) Alternate requirements. The director of public works may establish stormwater management requirements more stringent than those set forth in this section if the director of public works determines that an added level of protection is needed to protect sensitive resources. Also, the director of public works may establish stormwater management requirements less stringent than those set forth in this section if the director of public works determines that less protection is needed to protect sensitive resources and provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by the state department of natural resources under NR 151 Wisconsin Administrative Code.

Sec. 28-8. - Permitting requirements, procedures and fees.

- (a) Permit required. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the director of public works prior to commencing the proposed activity.
- (b) Permit application and fees. Unless specifically excluded by this chapter, any responsible party desiring a permit shall submit to the director of public works a permit application made on a form provided by the director of public works for that purpose.
 - (1) Unless otherwise excepted by this chapter, a permit application must be accompanied by a stormwater management plan, a maintenance agreement and a non-refundable permit administration fee.
 - (2) The stormwater management plan shall be prepared to meet the requirements of sections 28-7 and 28-9 of this chapter, the maintenance agreement shall be prepared to meet the requirements of section 28-10 of this chapter, the financial guarantee shall meet the requirements of section 28-11, and fees shall be those established by the common council as set forth in section 28-12 of this chapter.
- (c) Review and approval of permit application. The director of public works shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
 - (1) Within 20 business days of the receipt of a complete permit application, including all items as required by subsection (b)(2), the director of public works shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this chapter.
 - (2) If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the director of public works shall issue the permit.
 - (3) If the stormwater permit application, plan or maintenance agreement is disapproved, the director of public works shall detail in writing the reasons for disapproval.
 - (4) The director of public works may request additional information from the applicant. If additional information is submitted, the director of public works shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - (5) Failure by the director of public works to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (d) Permit requirements. All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter shall be deemed to have accepted these conditions. The director of public works may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the director of public works to suspend or revoke this permit may be appealed in accordance with section 28-14 of this chapter.
 - (1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
 - (2) The responsible party shall design and install all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and this permit.
 - (3) The responsible party shall notify the director of public works at least ~~ten~~10 business days before commencing any work in conjunction with the stormwater management plan, and within

~~ten~~10 business days upon completion of the stormwater management practices. If required as a special condition under subsection (e), the responsible party shall make additional notification according to a schedule set forth by the director of public works so that practice installations can be inspected during construction.

- (4) Practice installations required as part of this chapter shall be certified "~~as built~~" or as "record" drawings by a licensed professional engineer. Completed stormwater management practices must pass a final inspection by the director of public works or its designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The director of public works or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
- (5) The responsible party shall notify the director of public works of any significant modifications it intends to make to an approved stormwater management plan. The director of public works may require that the proposed modifications be submitted to it for approval prior to incorporation into the stormwater management plan and execution by the responsible party.
- (6) The responsible party shall maintain all stormwater management practices in accordance with the stormwater management plan until the practices either become the responsibility of the common council, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (7) The responsible party authorizes the director of public works to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under Wis. Stats. ch. 66, subch. VII, or to charging such costs against the financial guarantee posted under section 28-11 of this chapter.
- (8) If so directed by the director of public works, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
- (9) The responsible party shall permit property access to the director of public works or its designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
- (10) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the director of public works may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
- (11) The responsible party is subject to the enforcement actions and penalties detailed in section 28-13 of this chapter, if the responsible party fails to comply with the terms of this permit.
- (12) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.
- (e) Permit conditions. Permits issued under this subsection may include conditions established by director of public works in addition to the requirements needed to meet the performance standards in section 28-7 of this chapter or a financial guarantee as provided for in section 28-11 of this chapter.
- (f) Permit duration. Permits issued under this section shall be valid from the date of issuance through the date the director of public works notifies the responsible party that all stormwater management practices have passed the final inspection required under subsection (d)(4).
- (g) Alternate requirements. The director of public works may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under subsection 28-7(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 28-9. - Stormwater management plan.

- (a) Plan requirements. The stormwater management plan required under subsection 28-8(b) shall comply with the city stormwater reference guide and contain at a minimum the following information:
- (1) Name, address, and telephone number of the landowner and responsible parties.
 - (2) A legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
 - (3) Predevelopment site map with property lines, disturbed limits, and drainage patterns.
 - (4) Postdevelopment site map with property lines, disturbed limits, and drainage patterns.
 - a. Total area of disturbed impervious surfaces within the site.
 - b. Total area of new impervious surfaces within the site.
 - c. Performance standards applicable to site.
 - d. Proposed best management practices.
 - e. Groundwater, bedrock, and soil limitations.
 - f. Separation distances. Stormwater management practices shall be adequately separated from wells to prevent contamination of drinking water.
- (b) Alternate requirements. The director of public works may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under subsection 28-7(c) or for applicants seeking a permit for a postconstruction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 28-10. - Maintenance agreement.

- (a) Maintenance agreement required. The maintenance agreement required under subsection 28-8(b) for stormwater management practices shall be an agreement between the director of public works and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance agreement shall be filed with the county register of deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.
- (b) Agreement provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by subsection 28-9(a)(6):
- (1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
 - (2) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under subsection 28-8(b).
 - (3) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the stormwater management practices identified in the stormwater management plan required under subsection 28-8(b).
 - (4) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in subsection (b)(2) of this section.

- (5) Authorization for the director of public works to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - (6) A requirement on the director of public works to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.
 - (7) Agreement that the party designated under subsection (b)(3) of this section, as responsible for long term maintenance of the stormwater management practices, shall be notified by the director of public works of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the director of public works.
 - (8) Authorization of the director of public works to perform the corrected actions identified in the inspection report if the responsible party designated under subsection (b)(3) does not make the required corrections in the specified time period. The director of public works shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stats. ch. 66, subch. VII.
- (c) Alternate requirements. The director of public works may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 28-7(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 28-11. - Financial guarantee.

- (a) Establishment of the guarantee. The director of public works may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the director of public works. The financial guarantee shall be in an amount determined by the director of public works to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the director of public works the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the director of public works that the requirements of this chapter have not been met.
- (b) Conditions for release. Conditions for the release of the financial guarantee are as follows:
 - (1) The director of public works shall release the portion of the financial guarantee established under this section, less any costs incurred by the director of public works to complete installation of practices, upon submission of ~~"as built plans"~~ or "record" drawings by a licensed professional engineer. The director of public works may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - (2) The director of public works shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater practices, less any costs incurred by the director of public works, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.
- (c) Alternate requirements. The director of public works may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under subsection 28-7(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 28-12. - Fee schedule.

The fees referred to in this chapter shall be established by resolution of the common council. A schedule of the fees so established shall be available for review in the office of the director of public works or city clerk-treasurer.

Sec. 28-13. - Enforcement.

- (a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this chapter by any person, firm, association, or corporation subject to ~~this chapter's~~ provisions shall be deemed a violation unless conducted in accordance with the requirements of this chapter.
- (b) The director of public works shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (c) Upon receipt of written notification from the director of public works under subsection (b), the responsible party shall correct work that does not comply with the stormwater management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the director of public works in the notice.
- (d) If the violations to a permit issued pursuant to this chapter are likely to result in damage to properties, public facilities, or waters of the state, the director of public works may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the director of public works plus interest and legal costs shall be billed to the responsible party.
- (e) The director of public works is authorized to post a stop-work order on all land disturbing construction activity that is in violation of this chapter, or to request the city attorney to obtain a cease and desist order in any court with jurisdiction.
- (f) The director of public works may revoke a permit issued under this chapter for non-compliance with chapter provisions.
- (g) Any permit revocation, stop-work order, or cease and desist order shall remain in effect unless retracted by the director of public works or by a court with jurisdiction.
- (h) The director of public works is authorized to refer any violation of this chapter, or of a stop work order or cease and desist order issued pursuant to this chapter, to the [municipal attorney, corporation counsel] for the commencement of further legal proceedings in any court with jurisdiction.
- (i) Any person, firm, association, or corporation who does not comply with the provisions of this chapter shall be subject to a forfeiture of not less than \$200.00 or more than \$1,000.00 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (j) Compliance with the provisions of this chapter may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (k) When the director of public works determines that the holder of a permit issued pursuant to this chapter has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the director of public works or a party designated by the director of public works may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The director of public works shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial

security posted pursuant to section 28-11 of this chapter. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon.

Sec. 28-14. - Appeals.

- (a) Board of appeals. The board of appeals, created pursuant to § 14.21 of the city zoning ordinance pursuant to Wis. Stats § 62.23(7)(e), shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the director of public works in administering this chapter. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this chapter that are not contrary to the public interest, and where owing to special conditions a literal enforcement of this chapter will result in unnecessary hardship.
- (b) Who may appeal. Appeals to the board of appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the city affected by any decision of the director of public works.

Sec. 28-15. - Severability.

If any section, clause, provision or portion of this chapter is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall remain in force and not be affected by such judgment.

City of De Pere, Wisconsin**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: City Clerk-Treasurer

FROM: Shana Ledvina

SUBJECT: Recommendation from the License Committee on an Application for a Temporary Premise Description Change for St. Norbert College.

ATTACHMENTS:

- SNC_Premise Description Change (PDF)

ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION

Submit to municipal clerk.

For the license period beginning 07/01 20 1 ;
ending 06/30 20 1TO THE GOVERNING BODY of the: ☐ Town of
☐ Village of } DEPERE
☒ City of }

County of BROWN 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):
-
- ST. NORBERT COLLEGE, 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	PRESIDENT THOMAS KUNKEL	1527 FOX RIDGE CT	54115
Vice President/Member			
Secretary/Member	SECRETARY AMY SORENSON	1521 BAY HIGHLANDS	GREEN BAY 54311
Treasurer/Member	TREASURER EILEEN JAHNKE	3435 BAY HIGHLANDS	GREEN BAY 54311
Agent	TERRIE DUBOIS	118 S. WASHINGTON ST 114B	GREEN BAY 54301
Directors/Managers			

3. Trade Name ST. NORBERT COLLEGE Business Phone Number 9204031352
4. Address of Premises SEE ATTACHED Post Office & Zip Code 54115
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.) SEE ATTACHED FOR DATES AND LOCATION-PREMISE EXTENSION
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 5630.5) 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 8th day of September, 2016

Krissti M. Simon
(Clerk/Notary Public)

My commission expires 09/25/2016

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk	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.: 458102011225103		FEIN Number: 39-1399196
LICENSE REQUESTED ▶		
TYPE	FEE	
☐ Class A beer	\$	
☒ Class B beer	\$	
☐ Class C wine	\$	
☐ Class A liquor	\$	
☐ Class A liquor (cider only)	\$ N/A	
☒ Class B liquor	\$	
☐ Reserve Class B liquor	\$	
☐ Class B (wine only) winery	\$	
Publication fee	\$	
TOTAL FEE	\$	

Extension of Premise for:

Bush Art Center; First floor area outside the gallery, 403 Third Street (attached to Michels Commons which is licensed) for a wine reception open to the public

Oct. 13th 5-7 pm

City of De Pere, Wisconsin



Request For Common Council Action

MEETING DATE: October 4, 2016

DEPARTMENT: City Clerk-Treasurer

FROM: Shana Ledvina

SUBJECT: Recommendation from the License Committee on an Application for Change of Agent submitted by Walgreen Co.

ATTACHMENTS:

- Walgreens_Change of Agent (PDF)

ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION

Submit to municipal clerk.

For the license period beginning 7/1 2016 ;
ending 6/30 2017TO THE GOVERNING BODY of the: ☐ Town of
☐ Village of } De Pere
☒ City of }County of Brown 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):
- Walgreen Co.

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	Please see corporate rider		
Vice President/Member			
Secretary/Member			
Treasurer/Member			
Agent	Toni A. Minor - Store Manager	2790 Lavender Ln, Howard, WI 54313	
Directors/Managers			

3. Trade Name Walgreens #15637 Business Phone Number 920--278-3241
4. Address of Premises 150 S Wisconsin St Post Office & Zip Code De Pere, WI 54115
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 IL and date 9/15/1909 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.) One-story building of 16,300 sq ft
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 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 21st day of September, 2016Amelia Legutki
Asst Secretary

Ricardo J. Ramirez
(Clerk/Notary Public)
OFFICIAL SEAL
RICARDO J RAMIREZ
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES: 07/30/17

(Officer of Corporation/Member/Manager of Limited Liability Company/Partner/Individual)_____
(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>9-23-16</u>	Date reported to council/board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	

City of De Pere, Wisconsin**Request For Common Council Action**

MEETING DATE: **October 4, 2016**

DEPARTMENT: **Parks, Recreation & Forestry**

FROM: **Marty Kosobucki**

SUBJECT: **Recommendation from the Board of Park Commissioners to accept
the Pink Flamingo Donation for the Recreation Scholarship.**

This memo is to seek the Common Councils approval of a donation from the Pink Flamingo's for the Recreation Scholarship. The amount of the donation is \$250.

Thank you for your consideration in this matter. If you have any questions, concerns or comments, please do not hesitate to contact me.

City of De Pere, Wisconsin

**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: Parks, Recreation & Forestry

FROM: Marty Kosobucki

SUBJECT: **Recommendation from the Board of Park Commissioners to accept a Project Proposal for a Decorative Planter at the Dog Park Entrance for the De Pere Dog Park.**

Issue: This memo is to seek the Common Councils approval for the De Pere Parks, Recreation and Forestry Department to accept a Project Proposal from an Eagle Scout to build a decorative planter at the entrance of the De Pere Dog Park.

Summary: The Eagle Scout Service Project Proposal from Scout Collin Fayas details plans to fund raise and acquire materials to build the planter at the De Pere Dog Park. The approximate value of the donation may be \$1400. I have spoken to Collin and he will be recruiting volunteers to help him in his quest. He is specifically looking to build the planter next to the entrance to help beautify the area with flowers/plants.

Thank you for your consideration in this matter. If you have any questions, concerns or comments, please do not hesitate to contact me.

City of De Pere, Wisconsin

**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: Common Council

FROM: Peter Schleinz

SUBJECT: Recommendation from Plan Commission to Approve a Proposed Extraterritorial Two-Lot Certified Survey Map at 3975 Creamery Road in Ledgeview (Parcel D-486-2). Submitted by Richard A. Huxford, PLS.

On September 26, 2016 the Plan Commission recommended, by a vote of 6-0, that the proposed extraterritorial two-lot Certified Survey Map in the Town of Ledgeview be approved, with conditions.

ATTACHMENTS:

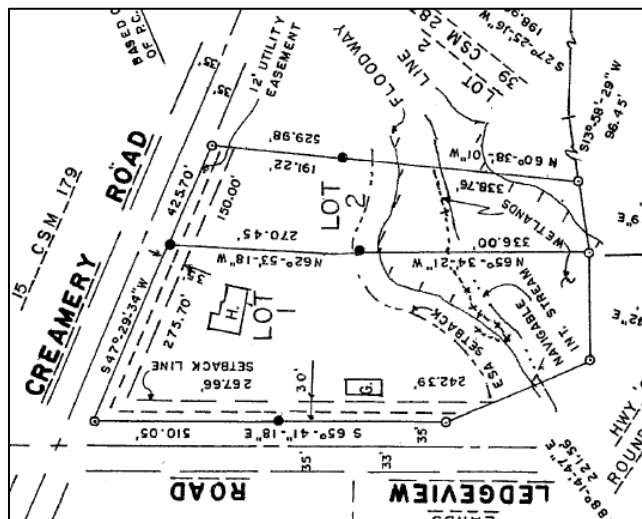
- Extraterritorial CSM - Gossen - Plan Commission Report FINAL (DOCX)
- Application Form - Gossen (PDF)
- Preliminary CSM REVISED - Gossen (PDF)

ITEM: Review and recommendation for a Proposed Extraterritorial Two-Lot Certified Survey Map at 3975 Creamery Road in Ledgeview (Parcel D-486-2). Submitted by Richard A. Huxford, PLS.*

SITE MAP



PROPOSED CERTIFIED SURVEY MAP AREA



REQUESTED ACTION: Extraterritorial Certified Survey Map Approval.*

COMMON DESCRIPTION: 3975 Creamery Road in the Town of Ledgeview, located northeast from the Creamery Road and Ledgeview Road intersection.

**City of De Pere
Staff Comments**

**Plan Commission
September 26, 2016**

PARCEL NUMBER(S):	D-486-2
EXISTING ZONING:	Located in Town of Ledgeview.
PROPOSED ZONING:	None.
SURROUNDING LAND USES:	Residential and natural areas to the north, east, and west. Residential and agricultural to the south.
COMPREHENSIVE PLAN:	Not identified as this is an extraterritorial area.
APPLICANT NAME:	Richard A. Huxford, PLS, Authorized Representative Huxford Surveyors INC 2589 Oak Ridge Circle De Pere, WI 54115
SITE HISTORY:	After a review of air photographs, the property has been used for residential purposes for over 25 years, and agricultural purposes prior to that. There is a waterway and floodway at the east end of the proposed lots that are likely environmentally sensitive areas (ESA) that do not affect the buildable area on the property. The ESA will be addressed by Brown County Planning Commission.
STAFF REVIEW:	When reviewing a Certified Survey Map, staff considers State Statutes 236, Section 46-8 of the De Pere Platting and Division of Land Code, the future land use recommendation of the Comprehensive Plan, surrounding land uses, and desired development patterns. The Certified Survey Map meets the criteria of State Statutes 236 and Section 46-8 of the De Pere Platting and Division of Land Code. Creating two lots for proposed residential sites does not impact the Comprehensive Plan negatively. For extraterritorial Certified Survey Map petitions, the Plan Commission either approves, rejects, or approves the map with conditions. The subject Certified Survey Map must also be approved by the Common Council due to being an extraterritorial review.
STAFF RECOMMENDATION:	Staff recommends APPROVAL of the extraterritorial Certified Survey Map and forwarding the map to the Common Council for final approval, subject to: 1. Meeting all other state and local regulations, including the Town of Ledgeview and Brown County Planning Commission.

	CITY OF DE PERE APPLICATION FOR CSM REVIEW	Fee: \$ 350.00
		Receipt #: 115274
		Date: 8-18-16

Read all instructions provided before completing. If additional space is needed, attach additional pages. Type or use black ink.

SECTION 1: Applicant / Permittee Information

Applicant Name (Ind., Org. or Entity) POA. LAURA PETERS FOR OWNER	Authorized Representative RICHARD A. HUXFORD	Title LAND SURVEYOR	
Mailing Address 303 DESPLAINE	City DE PERE	State WI	ZIP Code 54115
Email Address [Signature]	Phone Number (incl. area code) 920 6608587	Fax Number (incl. area code) [Signature]	

SECTION 2: Landowner Information (complete these fields when project site owner is different than applicant)

Name (Ind. Org. or Entity) ELAINE M. GOSSEN	Contact Person LAURA PETERS POA	Title DAUGHTER	
Mailing Address % LAURA PETERS 303 DESPLAINE	City DE PERE	State WI	ZIP Code 54115
Email Address [Signature]	Phone Number (incl. area code) 920 6608587	Fax Number (incl. area code) [Signature]	

SECTION 3: Project or Site Location

Project Address/Description Lot 1, 39 CSM 283 N.E. COR. CREAMERY ROAD E. LEDGEVIEW ROAD	Parcel No. D-486-2
--	-----------------------

SECTION 4: CSM Information

Existing Zoning:	
Present Use of Parcel:	RESIDENTIAL
Proposed Use of Lots:	RESIDENTIAL

Please submit 1 hard copy and 1 PDF copy of the CSM if the property is located within the City or if the property is located within the extraterritorial jurisdiction.

SECTION 5: Certification and Permission

Certification: I hereby certify that I am the owner or authorized representative of the owner of the property which is the subject of this Permit Application. I certify that the information contained in this form and attachments is true and accurate. I certify that the project will be in compliance with all permit conditions. I understand that failure to comply with any or all of the provisions of the permit may result in permit revocation and a fine and/or forfeiture under the provisions of applicable laws.

Permission: I hereby give the City permission to enter and inspect the property at reasonable times, to evaluate this notice and application, and to determine compliance with any resulting permit coverage.

Name of Owner/Authorized Representative (please print) RICHARD A. HUXFORD, PLS	Title LAND SURVEYOR PLS-937	Phone Number 920 3364011
Signature of Applicant Richard A. Huxford		Date Signed 8-17-2016

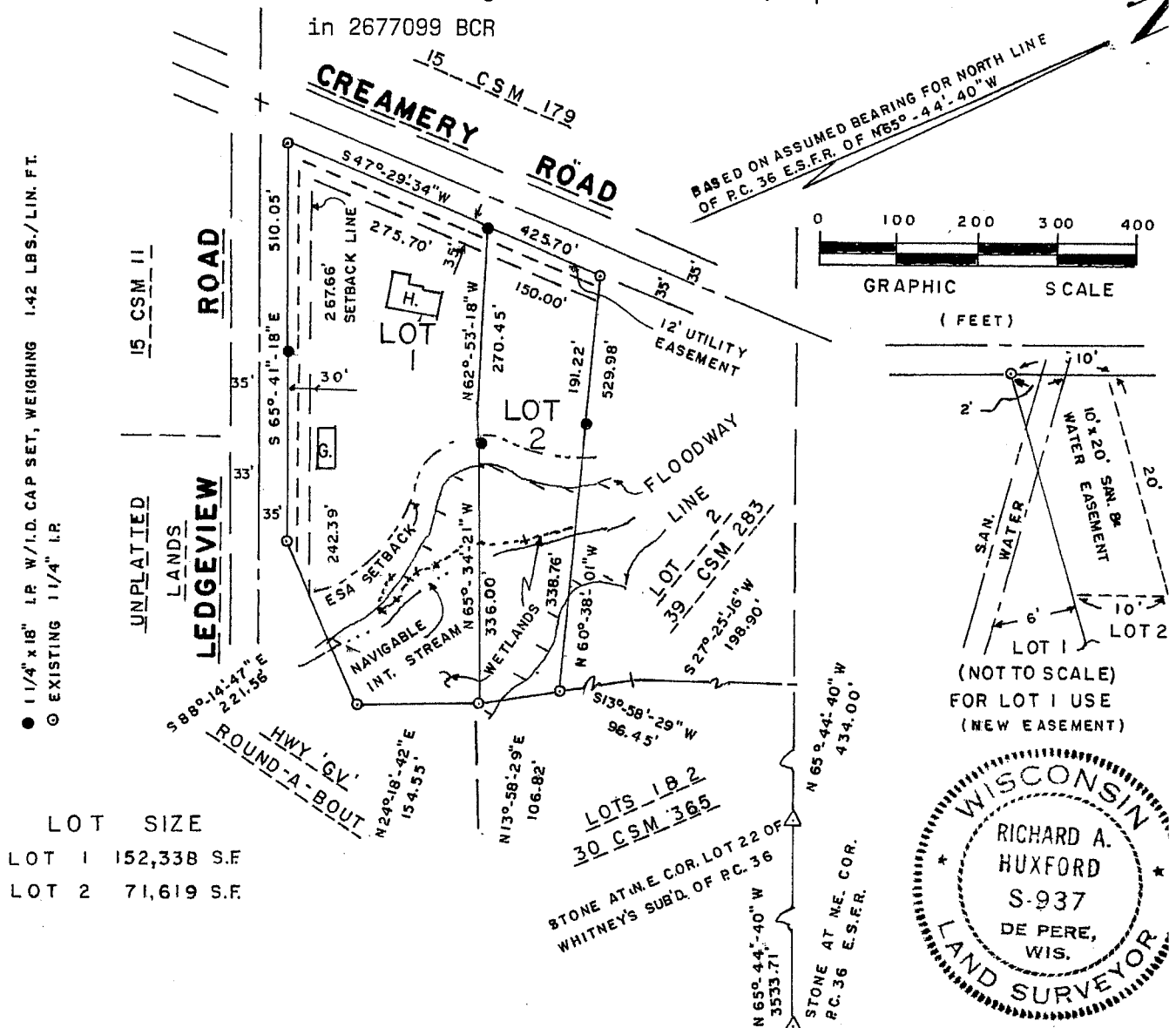
TO BE COMPLETED BY CITY STAFF

CSM Review authorized by the De Pere Municipal Code, Chapter 46.

#5083-PC
#5084-CC

CERTIFIED SURVEY MAP

Part of Lot 22 of Whitney's Sub'd. of P.C. 36, ESFR, Town of Ledgeview,
Brown County, Wisconsin being Lot 1 of 39 CSM 283, Map 5997 Ex. Road



I, Richard A. Huxford, Professional Land Surveyor do hereby certify that I have surveyed, divided and mapped a parcel of land located in Lot 22 of Whitney's Sub'd. of P.C. 36, ESFR in the Town of Ledgeview, Brown County, Wis. being all of Lot 1 of 39 CSM 283, Map 5997 Ex. Road in Doc. 2677099 BCR described as follows: Commencing at the NE corner of said PC 36; thence N 65°-44'-40" W, 3533.71 feet along the northerly PC line to the NE'ly corner of said Lot 22; thence continuing along said northerly PC line, M 65°-44'-40" W, 434.00 feet; thence S 27°-25'-16" W, 198.90 feet; thence S 13°-58'-29" W, 96.45 feet to the Point Of Beginning; thence N 60°-38'-01" W, 529.98 feet to a point on the E'ly R/W of Creamery Road; thence S 47°-29'-34" W along said R/W, 425.70 feet to a point on the N'ly R/W of Ledgeview Road; thence S 65°-41'-18" E along said R/W, 510.05 feet to a point on the N'ly R/W of a Hwy. "GV" Round-A-Bout; thence S 88°-14'-47" E along said R/W, 221.56 feet; thence N 24°-18'-42" E, 154.55 feet; thence N 13°-58'-29" E, 106.82 feet to the Point Of Beginning. Containing 223,957 sq. ft. (5.141 Ac.) more or less.

I do further certify that I have complied with the provisions of Chapter 236.15 and 236.34 of the Wisconsin Statutes and the Land Division Ordinances of the Town of Ledgeview, City of De Pere and Brown County and that this map correctly represents all exterior boundaries of the land surveyed, That I have made such survey and land division by the order and direction of Laura Peters who has POA for the owner Elaine M. Gossen.

Richard A. Huxford, PLS-937



Stock No. 26273

Attachment: Preliminary CSM REVISED - Gossen (5084 : Recommendation from Plan Commission to Approve a Proposed Extraterritorial Two-Lot Certified Survey)

Restrictive Covenants

Lots 1 & 2 contain wetland areas that may require a permit from the Army Corps of Engineers, wis. DNR or the Brown County Zoning Administrator prior to any development activity.

Lots 1 & 2 contain an environmentally sensitive area (ESA) as defined in the Brown County Sewerage Plan. The ESA includes all wetlands, all lands within 35 feet of wetlands 2 acres or greater, and all lands within 75 feet of a stream. Development and land disturbing activities are restricted in the ESA unless amendments are approved by the Brown County Planning Commission and the Wis. DNR.

The property owners, at the time of construction, shall implement the appropriate soil erosion control method(s) as outlined in "Wisconsin Construction Site Best Management Practice Handbook" to prevent soil erosion. However, if at the time of construction the Town has adopted a soil erosion control ordinance, it shall govern over this requirement. This provision applies to any construction or installation related activities.

A Shoreland Permit from the Brown County Zoning Administrator's Office is required prior to any construction, fill or grading activity within 300 feet of a stream.

The land on all side and rear lot lines of all lots shall be graded by the lot owner and maintained by the abutting property owners to provide for the adequate drainage of surface water.

Owner's Certificate:

Having the POA for the owner Elaine M. Gossen, I do hereby certify that I have caused the land shown and described on this certified survey map to be surveyed, divided and dedicated as shown. Also that this map is required by SS 236.10 or 236.12 to be submitted to the following for approval or objection: Town of Ledgeview, City of De Pere and the Brown County Planning Commission.

Laura Peters, having POA for
Elaine M. Gossen

State of Wisconsin) SS
Brown County)

Personally came before me this _____ day of _____, 2016, the above named Laura Peters, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, Brown Co., Wi.
My commission expires _____



Certificate of the Brown County Planning Commission

Approved for the Brown County Plan Commission this _____ day of _____, 2016.

Dan Teaters, Senior Planner
Brown County Plan Commission

Certificate of the City of De Pere

Approved by the City of De Pere this _____ day of _____, 2016.

Certificate of the Town of Ledgeview

Approved by the Town Board of the Town of Ledgeview this _____ day of _____, 2016

Sarah K. Burdette
Town of Ledgeview Clerk

Brown County and Town of Ledgeview Treasurers Certificate

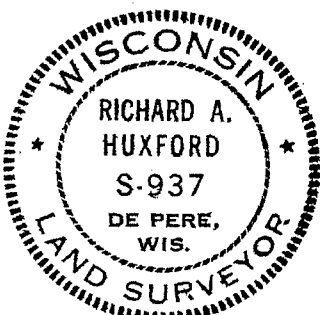
As the duly elected and appointed treasurers of Brown County and the Town of Ledgeview, we hereby certify that the records in our offices show no unredeemed taxes and no unpaid special assessments affecting any of the lands included in this certified survey map as of the date listed below.

Paul D. Zeller, Brown County Treasurer

Date

Ranae Peters, Town of Ledgeview Treasurer

Date

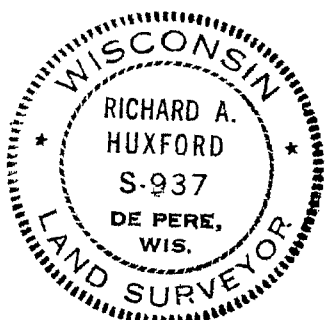


UTILITY EASEMENT PROVISIONS

An easement for electric, natural gas, and communications service is hereby granted by Laura Peters, having Power Of Attorney for Elaine M. Gossen, owner of record, Grantor, to WISCONSIN PUBLIC SERVICE CORPORATION, a

Wisconsin corporation, Grantee their respective successors and assigns, to construct, install, operate, repair, maintain and replace from time to time, facilities used in conjunction with overhead and underground transmission and distribution of electricity and electric energy, natural gas, telephone and cable TV facilities for such purposes as the same is now or may hereafter be used, all in, over, under, across, along and upon the property shown within those areas on the plat designated as "Utility Easement" and the property designated on the plat for streets and alleys, whether public or private, together with the right to install service connections upon, across, within and beneath the surface of each lot to serve improvements, thereon, or on adjacent lots; also the right to trim or cut down trees, brush and roots as may be reasonably required incidental to the rights herein given, and the right to enter upon the subdivided property for all such purposes. The Grantees agree to restore or cause to have restored, the property, as nearly as is reasonably possible to the condition existing prior to such entry by the Grantees or their agents. This restoration, however, does not apply to the initial installation of said underground and/or above ground electric facilities, natural gas facilities, or telephone and cable TV facilities or to any trees, brush or roots which may be removed at any time pursuant to the rights herein granted. Structures shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "Utility Easement" without the prior written consent of Grantees. After installation of any such facilities, the grade of the subdivided property shall not be altered by more than six inches without written consent of grantees. This Utility Easement Provision does not prevent or prohibit others from utilizing or crossing the Utility Easement as the Utility easement(s) are non-exclusive.

The grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.



City of De Pere, Wisconsin

**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: Common Council

FROM: Peter Schleinz

SUBJECT: Recommendation from Plan Commission to Approve a Proposed Four-Lot Certified Survey Map at 2100 BLK Richco Road in De Pere (Parcels WD-L178-1-1, WD-L179, WD-L179-3, WD-L179-4). Submitted by City of De Pere.

On September 26, 2016 the Plan Commission recommended, by a vote of 6-0, that the proposed four-lot Certified Survey Map in the City of De Pere be approved, with conditions.

ATTACHMENTS:

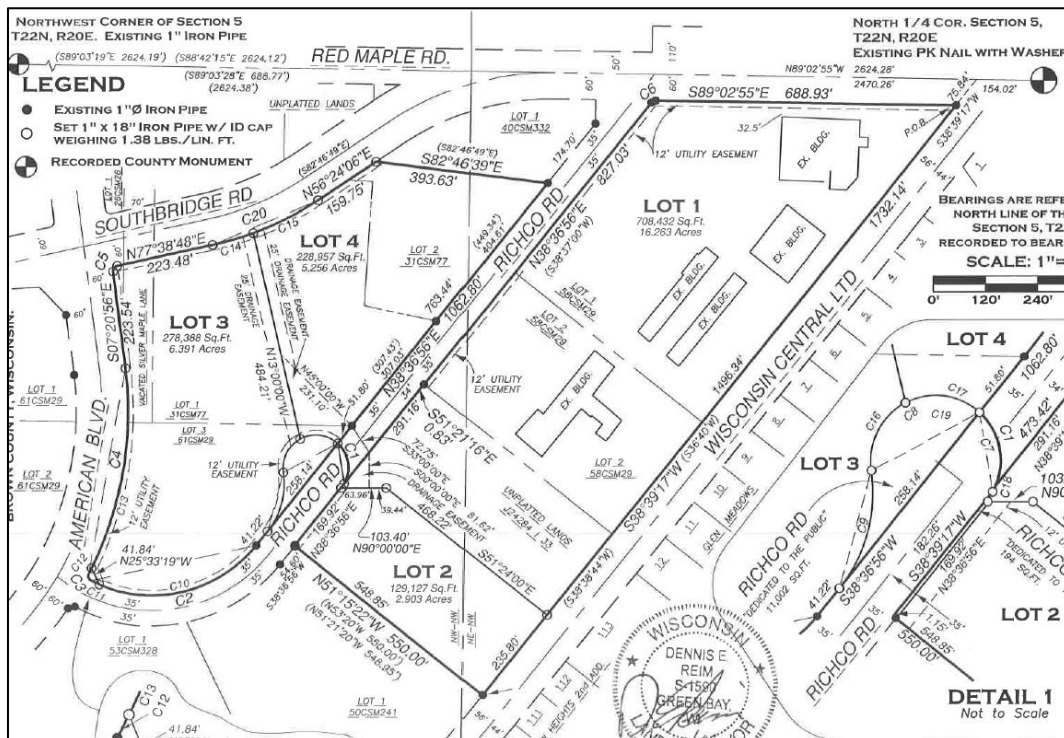
- CSM - City of De Pere - Plan Commission Report FINAL (DOCX)
- Preliminary CSM - Richco Road (PDF)

ITEM: Review and recommendation for a Proposed Four-Lot Certified Survey Map at 2100 BLK Richco Road in De Pere (Parcels WD-L178-1-1, WD-L179, WD-L179-3, WD-L179-4). Submitted by the City of De Pere.*

SITE MAP



PROPOSED CERTIFIED SURVEY MAP AREA



REQUESTED ACTION:	Certified Survey Map Approval.*
COMMON DESCRIPTION:	2100 BLK Richco Road, located south from the Richco Road and Red Maple Road intersection
PARCEL NUMBER(S):	WD-L178-1-1, WD-L179, WD-L179-3, WD-L179-4
EXISTING ZONING:	I-3 (General Industrial District) All but Parcel WD-L178-1-1 are in TID #11
PROPOSED ZONING:	None.
SURROUNDING LAND USES:	Industrial and vacant to the north, south, and west. Residential and vacant residential to the east.
COMPREHENSIVE PLAN:	Industrial Park and Business Park
APPLICANT NAME:	City of De Pere
SITE HISTORY:	After a review of air photographs, the property has been used for industrial purposes for over 30 years, and agricultural purposes prior to that. There is a proposed storm water management pond, to be built by the City on Lot 2. The pond is proposed to be owned by the City of De Pere. Also, Richco Road is proposed to be partially vacated to create the cul-de-sac seen on the CSM. The CSM reflects the contract approved by Council to acquire property from KC Stock for a regional stormwater pond. It also creates new lots with appropriate access off of Richco Road. Plan Commission will be reviewing the right-of-way vacation on September 26, 2016.
STAFF REVIEW:	When reviewing a Certified Survey Map, staff considers State Statutes 236, Section 46-8 of the De Pere Platting and Division of Land Code, the future land use recommendation of the Comprehensive Plan, surrounding land uses, and desired development patterns. The Certified Survey Map meets the criteria of State Statutes 236 and Section 46-8 of the De Pere Platting and Division of Land Code. Creating four lots for proposed industrial site and a storm water management pond does not impact the Comprehensive Plan negatively. Brown County indicated that small wetlands may be present in the area covered by the CSM. The City has been working with the DNR to ensure that all earthwork is compliant with their requirements. For Certified Survey Map petitions, the Plan Commission either

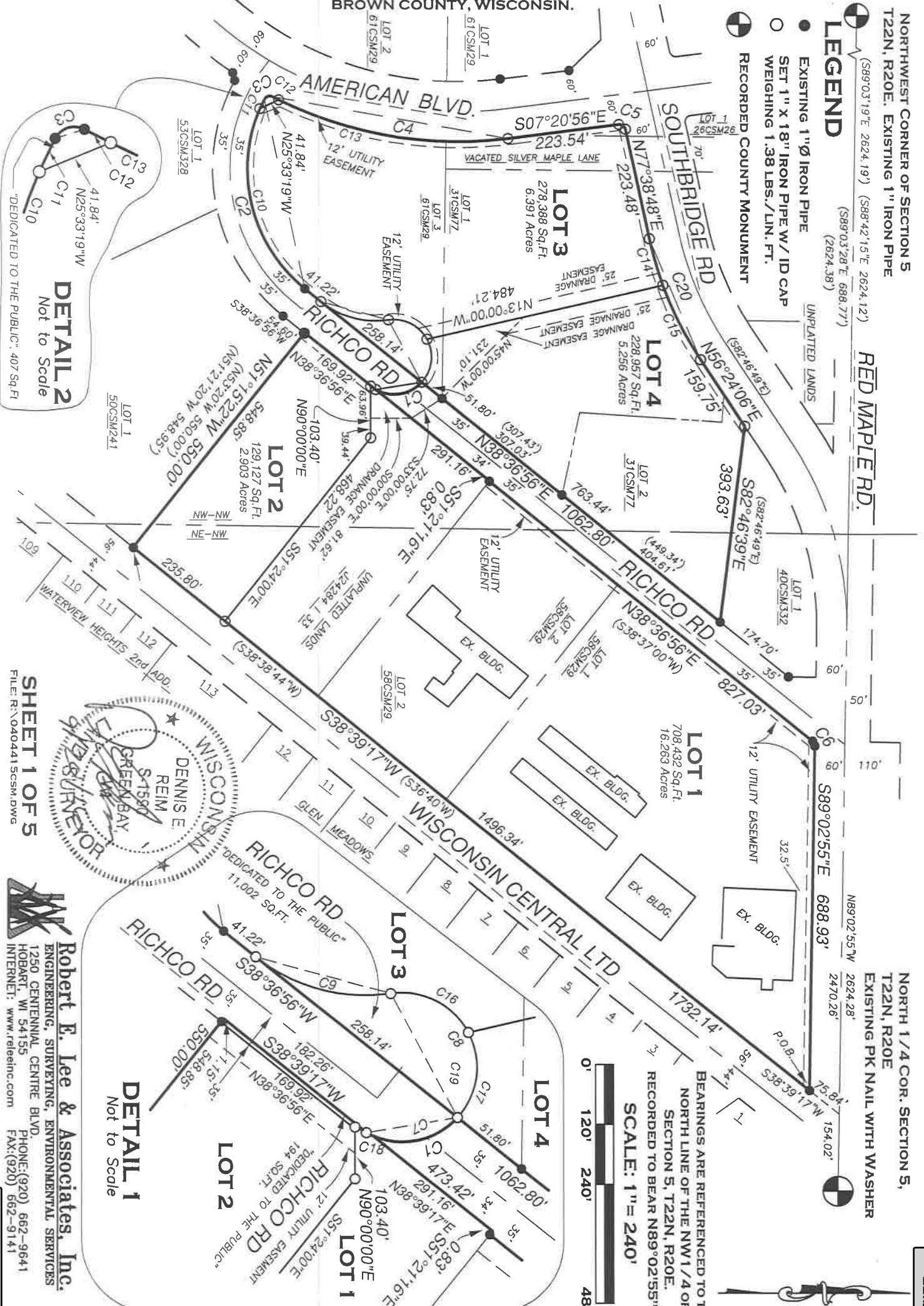
approves, rejects, or approves the map with conditions. The subject Certified Survey Map must also be approved by the Common Council because City owned property is involved.

STAFF RECOMMENDATION: Staff recommends APPROVAL of the Certified Survey Map and forwarding the map to the Common Council for final approval, subject to:

1. Meeting all other state and local regulations, including the City of De Pere and Brown County Planning Commission.

CERTIFIED SURVEY MAP

ALL OF LOT 3, VOLUME 61 OF CERTIFIED SURVEY MAPS, PAGE 29, MAP NO. 8600, ALL OF LOTS 1 AND 2, VOLUME 58 OF CERTIFIED SURVEY MAPS, PAGE 29, MAP NO. 8276, PART OF LOTS 1 AND 2, VOLUME 31 OF CERTIFIED SURVEY MAPS, PAGE 77, MAP NO. 4822, PART OF LOT 1, VOLUME 26 OF CERTIFIED SURVEY MAPS, PAGE 26, MAP NO. 4189, PART OF VACATED SILVER MAPLE LANE, PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4, PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4, SECTION 5, T22N, R20E, CITY OF DE PERE, BROWN COUNTY, WISCONSIN.



CERTIFIED SURVEY MAP

CURVE TABLE

CURVE	DELTA	ARC	RADIUS	CH BEARING	CHORD	TAN BEARING	TAN BEARING
C1	76°42'09"	100.40'	75.00'	N09°12'38.5"W	93.07'	S47°33'43"E	S29°08'26"W
C2	78°44'11"	419.13'	305.00'	S77°59'01.5"W	386.92'	N62°38'53"E	S38°36'56"W
C3	90°07'09"	18.87'	12.00'	N17°35'18.5"W	16.99'	N62°38'53"E	N27°28'17"E
C4	34°49'13"	485.67'	799.30'	N10°03'40.5"E	494.56'	N27°28'17"E	
C5	84°59'44"	17.80'	12.00'	N35°08'56"E	16.21'		
C6	52°20'09"	10.96'	12.00	N64°47'00.5"E	10.58'		
C7	86°10'39"	118.80'	75.00'	N04°28'23"W	102.47'	N47°33'43"E	
C8	140°58'44"	184.54	75.00'	S61°56'55"W	141.39'	S47°33'43"E	N08°32'27"W
C9	47°09'23"	144.03'	175.00'	S15°02'14.5"W	140.00'	S38°36'56"W	S08°32'27"E
C10	74°44'11"	397.84'	305.00	S75°59'01.5"W	370.23'	N38°36'56"E	N66°38'53"W
C11	04°00'00"	21.29'	305.00'	S64°38'53"W	21.29'	N62°38'53"W	S66°38'53"E
C12	01°00'00"	13.95	799.30'	N26°58'17"E	13.95'	S27°28'17"W	N26°28'17"E
C13	33°49'13"	471.72'	799.30'	N09°33'40.5"E	464.97'	S26°28'17"W	N07°20'56"W
C14	07°46'42"	96.38'	710.00'	N73°45'27"E	96.31'		
C15	13°28'00"	166.88'	710.00'	N63°08'06"E	166.49'		
C16	70°00'00"	91.63'	75.00'	N26°27'33"E	86.04'	N08°32'27"E	N61°27'33"E
C17	70°58'44"	92.91'	75.00'	N83°03'05"W	87.08'	S61°27'33"W	S47°33'43"E
C18	09°28'30"	12.40'	75.00'	N33°52'41"E	12.39'	S38°36'56"W	N29°08'26"E
C19	227°09'23"	303.34'	75.00'	S74°57'45.5"E	137.48'	S38°36'56"W	S08°32'27"E
C20	21°14'42"	263.26'	710.00'	N67°01'27"E	261.76'		

GRANT OF EASEMENT

An easement for electric, natural gas, and communications service is hereby granted by the City of De Pere and K C S Inc. to **WISCONSIN PUBLIC SERVICE CORPORATION, a Wisconsin corporation, and all other providers of electric facilities, natural gas facilities, or telephone and cable TV facilities, and the City of De Pere**, Grantees, their respective successors and assigns, to construct, install, operate, repair, maintain and replace from time to time, facilities used in connection with overhead and underground transmission and distribution of electricity and electric energy, natural gas, telephone and cable TV facilities, including public services provided by the City of De Pere for water mains, sanitary sewers, storm water and associated facilities for such purposes as the same is now or may hereafter be used, all in, over, under, across, along and upon the property shown within those areas on the plat designated as "Utility Easement Areas" and the property designated on the plat for streets and alleys, whether public or private, together with the right to install service connections upon, across within and beneath the surface of each lot to serve improvements, thereon, or on adjacent lots; also the right to trim or cut down trees, brush and roots as may be reasonably required incident to the rights herein given, and the right to enter upon the subdivided property for all such purposes. The Grantees agree to restore or cause to have restored, the property, as nearly as is reasonably possible, to the condition existing prior to such entry by the Grantees or their agents. This restoration, however, does not apply to the initial installation of said underground and/or above ground electric facilities, natural gas facilities, or telephone and cable TV facilities or to any trees, brush or roots which may be removed at any time pursuant to the rights herein granted. Structures shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "Utility Easement Areas" without the prior written consent of Grantees. After installation of any such facilities, the grade of the subdivided property shall not be altered by more than six inches without written consent of grantees.

The grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

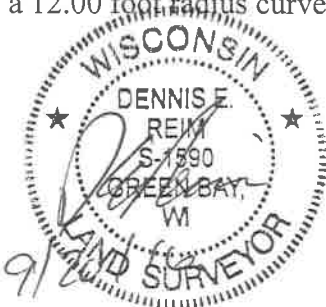


CERTIFIED SURVEY MAP

SURVEYOR'S CERTIFICATE

I, Dennis E. Reim, Professional Land Surveyor, do hereby certify that under the direction of Peter Schleinz, City Planner, City of De Pere, owner, I have surveyed, divided and mapped all of Lot 3, Volume 61 of Certified Survey Maps, Page 29, Map Number 8600, all of Lots 1 and 2 of Volume 58 Certified Survey Maps, Page 29, Map Number 8276, part of Lots 1 and 2 of Volume 31 of Certified Survey Maps, Page 77, Map Number 4822, part of Lot 1 of Volume 26 of Certified Survey Maps, Page 26, Map Number 4189, part of vacated Silver Maple Lane, part of the Northwest ¼ of the Northwest ¼, part of the Northeast ¼ of the Northwest ¼, all being located in Section 5, Township 22 North, Range 20 East, City of De Pere, Brown County, Wisconsin described as follows:

Commencing at the North ¼ Corner of said Section 5;
thence N89°02'55"W, 154.02 feet on the north line of said Section 5;
thence S38°39'17"W, 78.84 feet to the northeast corner of Lot 1 of said Volume 58 of Certified Survey Maps, Page 29, the POINT OF BEGINNING;
thence S38°39'17"W, 1732.14 feet along the easterly line of said Lot 1 extended to the northerly line of Lot 1, Volume 50 of Certified Survey Maps, Page 241;
thence N51°15'22"W, 550.00 feet along said northerly line to the easterly right of way of Richco Road;
thence N38°39'17"E, 182.26 feet on said easterly right of way;
thence 100.40 feet on the arc of a 75.00 foot radius curve to the left, having a long chord that bears N09°12'38.5"W, 93.07 feet to the westerly right of way of Richco Road;
thence S38°36'56"W, 299.36 feet;
thence on said westerly right of way 419.13 feet on the arc of a 305.00 foot radius curve to the right, having a long chord that bears S77°59'01.5"W, 386.92 feet;
thence continuing on said westerly right of way 18.87 feet on the arc of a 12.00 foot radius curve to the right, having a long chord that bears N17°35'18.5"W, 16.99 feet to the easterly right of way of American Boulevard;
thence on said easterly right of way 485.67 feet on the arc of a 799.30 foot radius curve to the left, having a long chord that bears N10°03'40.5"E, 494.56 feet;
thence N07°20'56"W, 223.54 feet on said easterly right of way;
thence continuing of said easterly right of way 17.80 feet on the arc of a 12.00 foot radius curve to the right, having a long chord that bears N35°08'56"E, 16.21 feet to the southerly right of way of Southbridge Road;
thence N77°38'48"E, 223.48 feet on said southerly right of way;
thence continuing on said southerly right of way 263.26 feet on the arc of a 710.00 foot radius curve to the left, having a long chord that bears N67°01'27"E, 261.76 feet;
thence N56°24'06"E, 159.75 feet on said southerly right of way to the southerly line of Lot 1, Volume 40 of Certified Survey Maps, Page 332;
thence S82°46'39"E, 393.63 feet on said southerly line to the westerly right of way of Richco Road;
thence S38°36'56"W, 763.44 feet on said westerly right of way;
thence 100.40 feet on the arc of a 75.00 foot radius curve to the right, having a long chord that bears S09°12'38.5"E, 93.07 feet to the easterly right of way of Richco Road;
thence N38°39'17"E, 473.42 feet on said easterly right of way;
thence S51°21'16"E, 0.83 to the southwest corner of Lot 1, said Volume 58 of Certified Survey Maps, Page 29;
thence N38°36'56"E, 827.03 feet on said easterly right of way;
thence continuing on said easterly right of way 10.96 feet on the arc of a 12.00 foot radius curve to the



CERTIFIED SURVEY MAP

right, having a long chord that bears N64°47'00.5"E, 10.58 feet to the south right of way of Red Maple Road;
thence S89°02'55"E, 688.93 feet on said south right of way to the POINT OF BEGINNING.

Parcel contains 1,356,507 square feet or 31.141 acres of land more or less.

That the within map is a true and correct representation of all the exterior boundaries of the land survey and division thereof. That I have fully complied with the provisions of Chapter 236, section 236.34 of the Wisconsin Statutes and Chapter 14 of the General Ordinances of the City of De Pere in the surveying, dividing and mapping of the same.

Dated this 20 day of September, 2016.
Dennis E. Reim RLS #1590
ROBERT E. LEE & ASSOCIATES, INC



CORPORATE OWNERS CERTIFICATE

K C S INC. a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, as owner, does hereby certify that said corporation caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on the plat. K C S INC. does further certify that this plat is required by S236.10 or S236.12 to be submitted to the following for approval or objection: City of De Pere

IN WITNESS WHEREOF, the said K C S INC. has caused these presents to be signed by

(print name) _____ its president, and countersigned by its secretary

(print name) _____, at _____, Wisconsin, and its corporate

seal to be hereunto affixed on this _____ day of _____, 2016.

K S C INC.

President (signature)

Secretary (signature)

STATE OF WISCONSIN)
COUNTY OF BROWN) ss

Personally came before me this _____ day of _____, 2016, the above named

_____, President, and _____, Secretary of the above named corporation, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public _____
(print name)

(signature)

_____ County, Wisconsin.

My commission expires: _____

CERTIFIED SURVEY MAP

MUNICIPAL CORPORATE OWNERS CERTIFICATE

City of De Pere, a Municipal Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin does hereby certify that said City of De Pere caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on the plat. City of De Pere does further certify that this plat is required by S236.10 or S236.12 to be submitted to the following for approval or objection:
City of De Pere

Michael Walsh, Mayer Shana D. Ledvina, Clerk

STATE OF WISCONSIN)
COUNTY OF BROWN) ss

Personally came before me this day of , 2016, the above named owner to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

Notary Public
(print name)
Brown County, Wisconsin.
My commission expires:

TREASURER'S CERTIFICATE

As appointed City of De Pere Treasurer, I hereby certify that the records in our offices show no unpaid taxes, no unredeemed tax sales and no unpaid or special assessments affecting any of the lands included in this plat, as of the dates listed below.

Shana D. Ledvina Date
City of De Pere Treasurer

COMMON COUNCIL APPROVAL CERTIFICATE

Approved for the City of De Pere this day of , 2016.

Shana D. Ledvina, Clerk



City of De Pere, Wisconsin**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: Common Council

FROM: Peter Schleinz

SUBJECT: Consideration of Ordinance Changes to Historic Preservation Ordinance.

ATTACHMENTS:

- Ord16-23A (DOCX)
- Historic Preservation Ordinance-Redlined Compliance with WI Act 176 (PDF)
- Ord16-23B (DOCX)
- Historic Preservation Ordinance-Redlined Continued CLG Status (PDF)
- 04 Oct 2016 - Common Council - Historic Preservation Ordinance Revision (DOCX)
- Wisconsin Historical Society - CLG Status - Wisconsin requirements and benefits (PDF)
- Chair Fleck-HPC Members 2015 WI ACT 176 Analysis -9-19-16-119-100-02 (PDF)
- Property Owner Letter - HPC Ordinance (DOCX)

ORDINANCE #16-23A

AMENDING VARIOUS PROVISIONS OF CHAPTER 38 DE PERE
MUNICIPAL CODE REGARDING HISTORIC PRESERVATION IN
COMPLIANCE WITH 2015 WISCONSIN ACT 176

THE COMMON COUNCIL OF THE CITY OF DE PERE, WISCONSIN, DO ORDAIN

AS FOLLOWS:

Section 1: Sec. 38-5(a), *Powers and duties of commission; Designation*, is hereby amended by inserting the following as the fourth sentence of such paragraph:

All owners of an historic site or an historic structure for which historic designation is proposed shall be provided with notice of the proposed designation prior to commission action on the designation.

Section 2. Sec. 38-6, *Procedures*, is hereby amended as follows:

1. By adding the following to the end of the second sentence in paragraph (a)(1): “of the proposed designation and of the time and place of the public hearing”;
2. By changing the fourth sentence in paragraph (a)(2) to read: “After designation or rescission has been made, official notification shall be sent to the property owners, and to the city clerk, building inspection department, plan commission and the city assessor.”; and
3. By adding the following as paragraph (a)(3): “The Common Council may overturn the decision of the Commission by a majority vote of the Council, as provided in Section 38-9 of this Chapter.”

Section 3. Sec. 38-9, *Appeal of Commission Decision*, is hereby created to read:

Sec. 38-9. – Appeal of Commission Decision.

An owner of property affected by a decision of the Commission may appeal the decision to the Common Council. Such appeal shall be made in writing, and filed with the City Clerk, not later than 24 days after receipt of the Commission decision at issue. The Council may overturn the decision of the Commission by majority vote of the council.

With all subsequent sections re-numbered accordingly.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall take effect upon its passage and publication.

Adopted by the Common Council of the City of De Pere, Wisconsin, this 4th day of October, 2016.

APPROVED:

Michael J. Walsh, Mayor

ATTEST:

Shana D. Ledvina, Clerk-Treasurer

Ayes: _____

Nays: _____

Board/Committee Approval: 09/19/16

Publication Date: _____

Effective Date: _____

Redlined – Compliance With 2015 Wisconsin Act 176

Chapter 38 - HISTORIC PRESERVATION[1]

Sec. 38-1. - Purpose and intent of chapter.

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character or special architectural or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the people. The purpose of this section is to:

- (1) Effect and accomplish the protection, enhancement, and perpetuation of such improvements, sites, and districts which represent or reflect elements of the city's cultural, social, economic, political, and architectural history.
- (2) Safeguard the city's historic and cultural heritage as embodied and reflected in such historic structures, sites, and districts.
- (3) Foster civic pride in the notable accomplishments of the past.
- (4) Stabilize and improve property values.
- (5) Protect and enhance the city's attractions to residents, tourists, and visitors, and serve as a support and stimulus to business and industry.
- (6) Improve and enhance the visual and aesthetic character of the city.
- (7) Educate the public regarding the need and desirability of a city historic preservation program and its enhancement of the quality of life.

Sec. 38-2. - Definitions.

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

Certificate of appropriateness means the certificate issued by the commission approving alteration, rehabilitation, construction, reconstruction, or demolition of an historic structure, historic site, or any improvement in an historic district.

City means City of De Pere, Wisconsin.

Commission means the historic preservation commission created under this chapter.

Historic district means an area designated by the common council, on recommendation of the commission, that contains two or more historic improvements or sites.

Historic site means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of humans, or upon which an historic event has occurred, and which has been designated as an historic site under this section, or an improvement parcel, or part thereof, on which is

situated an historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

Historic structure means any improvement which has a special character or special historic interest or value as part of the development, heritage, or cultural characteristics of the city, state, or nation, and which has been designated as an historic structure pursuant to the provisions of this chapter.

Improvement means any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs, and the like.

Improvement parcel means the unit of property which includes a physical betterment constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purpose of levying real estate taxes, provided, however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

Sec. 38-3. - Historic preservation commission; composition.

An historic preservation commission is hereby created, consisting of seven members. Of the membership, if available in the community, one shall be a registered architect; one shall be an historian; one shall be a licensed real estate broker; one shall be a council member; and three shall be citizen members, one of which must reside within an historic district. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The mayor shall appoint the commissioners subject to confirmation by the common council. Of the initial members so appointed, two shall serve a term of one year, two shall serve a term of two years, and three shall serve a term of three years. Thereafter, the term for each member shall be three years.

(Code 1974, § 11.03; Ord. No. 02-01, § 1, 1-2-2002)

Sec. 38-4. - Historic structure, historic site and historic district designation criteria.

(a) For purposes of this chapter, an historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement, or structure located thereon, or any area of particular historic, architectural, archeological, or cultural significance to the city, such as historic structures, sites, or districts which:

- (1) Exemplify or reflect the broad cultural, political, economic, or social history of the nature, state, or community;
- (2) Are identified with historic personages or with important events in national, state, or local history;
- (3) Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship;

(4) Are representative of the notable work of a master builder, designer, or architect who influenced his or her age; or

(5) Have yielded, or may be likely to yield, information important to prehistory or history.

(b) The commission may adopt specific operating guidelines for historic structure, historic site, and historic district designation providing such are in conformance with the provisions of this chapter.

Sec. 38-5. - Powers and duties of commission.

(a) Designation. Upon request of the property owner, the commission shall have the power, subject to section 38-6, infra, to designate historic structures and historic sites. The commission shall have the power to recommend designation of historic districts within the city limits. Any designation of an historic site or historic structure shall be with approval of the property owner(s). All owners of an historic site or an historic structure for which historic designation is proposed shall be provided with notice of the proposed designation prior to commission action on the designation. Such designations shall be made based on section 38-4, supra. Historic districts shall be approved by the common council. Once designated, such historic structures, sites, and districts shall be subject to all the provisions of this chapter.

(b) Regulation of construction, reconstruction, alteration, and demolition.

(1) No owner or person in charge of an historic structure, historic site, or structure within an historic district shall reconstruct, alter, or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties, or cause or permit any such work to be performed upon such property, or demolish such property unless a certificate of appropriateness has been granted by the historic preservation commission. Unless such certificate has been granted by the commission, the building inspector shall not issue a permit for any such work.

(2) Upon filing of any application for a certificate of appropriateness with the commission, the commission shall approve the application unless:

a. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy, or adversely affect any exterior architectural feature of the improvement or site upon which said work is to be done;

b. In the case of the construction of a new improvement upon an historic site or within an historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;

c. In the case of any property located in an historic district, the proposed construction, reconstruction, exterior alteration, or demolition does not conform to the purpose and

intent of this chapter and to the objectives and design criteria of the historic preservation plan for said district;

d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state;

e. The building or structure is of such old and unusual or uncommon design, texture, and/or material that it could not be reproduced without great difficulty and/or expense;

f. Except as provided herein, in the case of a request for the demolition of a deteriorated building or structure, any hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair. Upon the request for a demolition permit for a structure determined to be unfit for human habitation, occupancy, or use by any authorized public official or agency, the commission may defer the granting of approval for a period of up to six months from the time of such application, during which time the commission and the property owner shall undertake serious and continuing discussions for the purpose of finding a method to save such property. During such period, the property owner and the commission shall cooperate in attempting to avoid demolition of the property. At the end of this six-month period, if no mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is under way, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the subject property is pending, the building inspector may issue the permit to demolish the subject property without the approval of the commission. If such mutually agreeable method for saving the subject property is not successful or no such funds to preserve the subject property have been obtained and available for disbursement within a period of two months following the end of such six-month period, the building inspector may issue the permit to demolish the subject property without the approval of the commission.

(3) In addition, in determining whether to issue a certificate of appropriateness, the commission shall consider and may give decisive weight to any or all of the following standards:

a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

- d. Most properties change over time. Those changes that have acquired historic significance in their own right shall be retained and preserved.
- e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(4) If the commission determines that the application for a certificate of appropriateness and the proposed changes are consistent with the character and features of the property or district and with the above guidelines, it shall issue the certificate of appropriateness. Upon the issuance of such certificate, the building permit shall then be issued by the building inspector. The commission shall make this decision within 45 days of the filing of the application. Failure of the commission to act upon a request for a certificate of appropriateness within 45 days shall result in the issuance of such certificate.

(5) Agencies of the city and all public utility and transportation companies undertaking projects affecting historic structures, historic sites, or historic districts shall be required to obtain a certificate of appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets owned or franchised by the city.

(6) The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the city. A building permit or other municipal

permit shall be invalid if it is obtained without the presentation of the certificate of appropriateness required for the proposed work. Insofar as they are applicable to an historic structure, historic site, or improvement in an historic district designated under this section, any provision of the plumbing code, electrical code, or building or housing of the city shall apply unless waived by the appropriate state or city officials. The commission may support or propose such waivers before the appropriate state or city appeals body.

(7) Compliance with certificates of appropriateness shall be started within 12 months after the issuance of the certificate, and the work shall conform to the provisions of the certificate. The city may inspect the work during and after construction in order to assure compliance. Failure to comply with a certificate of appropriateness or failure to obtain a certificate of appropriateness shall be a violation of this section. In addition to other penalties and remedies, the city shall issue a stop work order, and all work shall cease on the designated property. No additional work shall be undertaken as long as such stop work order shall continue in effect.

(8) Ordinary maintenance and repairs may be undertaken without a certificate of appropriateness provided the work involves repairs to existing features of an historic structure or site, or the replacement of elements of a structure with pieces identical in appearance, and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

(c) Appeals. Should the commission deny a certificate of appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the common council within 30 days. In addition, if the commission denies a certificate of appropriateness, the commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a certificate of appropriateness within the guidelines of this chapter.

(d) Recognition of historic structures, sites, and districts. At such time as an historic structure, site, or district has been properly designated, the commission may cause to be prepared and erected on such property, at city expense, a suitable plaque declaring that such property is an historic structure, site, or district. Such plaque shall be so placed as to be easily visible to passing pedestrians. The plaque shall state the accepted name of the historic property, the date of its construction, and other information deemed proper by the commission.

(e) Other duties. In addition to those duties already specified in this section, the commission shall:

(1) Work for the continuing education of the citizens about the historical heritage of the city and the historic properties designated under the provisions of this chapter.

(2) Cooperate with the state historic preservation officer and the state historic preservation review board in attempting to include such properties hereunder designated as landmarks or landmark sites, or historic districts in the National Register of Historic Places and the State Register of Historic Places.

- (3) As it deems advisable, receive and solicit funds for the purpose of historic preservation in the city. Such funds shall be placed in a special city account for such purpose.

Sec. 38-6. - Procedures.

(a) Designation of historic structures and historic sites.

(1) The commission may, after notice and public hearing, designate historic structures and historic sites or rescind such designation or recommendation after application of the criteria in section 38-4, above. At least ten days prior to such hearing, the commission shall notify the owners of record, as listed in the office of the city assessor, who are owners of property in whole or in part situated within 100 feet of the boundaries of the property affected of the proposed designation and of the time and place of the public hearing. These owners shall have the right to confer with the commission prior to final action by the commission on the designation. Notice of such hearing shall also be published as a Class 1 Notice under the Wisconsin Statutes. The commission shall also notify the following: department of public works, redevelopment authority, parks department, fire and police departments, health department, building inspection department, and plan commission. Each such department may respond to the commission with its comments on the proposed designation or rescission.

(2) The commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The commission may conduct an independent investigation into the proposed designation or rescission. Within ten days after the close of the public hearing, the commission may designate the property as either an historic structure or historic site, or rescind the designation. After the designation or rescission has been made, official notification shall be sent to the property owner or owners, and, ~~Notification shall also be given~~ to the city clerk, building inspection department, plan commission, and the city assessor. The commission shall cause the designation or rescission to be recorded, at city expense, in the county register of deeds office.

(3) The Common Council may overturn the decision of the Commission by a majority vote of the Council, as provided in Section 38-9 of this Chapter.

(b) Designation of historic districts.

(1) For preservation purposes, the historic preservation commission shall select geographically defined areas within the city to be designated as historic districts and shall, with the assistance of the city planning department, prepare an historic preservation plan in ordinance form for each area. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city, which:

- a. Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, or community;
- b. Is identified with historic personages or with important events in national, state, or local history;
- c. Embodies the distinguishing characteristics of architectural types or specimens inherently valuable for the study of a period or periods, styles, methods, or construction, or of indigenous materials or craftsmanship;
- d. Is representative of the notable works of master builders, designers, or architects who influenced their age; or
- e. Has yielded, or may be likely to yield, information important to history or prehistory.

(2) Each historic preservation plan prepared for or by the historic preservation commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

(3) Guideline criteria to be considered in the development of historic district plans are as follows:

- a. Regulation of construction, reconstruction, alteration, and demolition shall conform to the criteria and standards in subsections 38-5(b)(1)—(3).
- b. All new structures shall be constructed to a height visually compatible with the building and environment with which they are visually related.
- c. The gross volume of any new structure shall be visually compatible with the buildings and environment with which it is visually related.
- d. In the street elevation of a building, the proportion between the width and height in the facade should be visually compatible with the building and environment with which it is visually related.
- e. The proportions and relationships between doors and windows in the street facade should be visually compatible with the buildings and environment with which it is visually related.
- f. The rhythm of solids to voids, created by openings in the facade, should be visually compatible with the buildings and environment with which they are visually related.
- g. The existing rhythm created by existing building masses and spaces between them should be preserved.
- h. The materials used in the final facade should be visually compatible with the buildings and environment with which they are visually related.

- i. The texture inherent in the facade should be visually compatible with the buildings and environment with which it is visually related.
- j. Colors and patterns used on the facade (especially trim) should be visually compatible with the buildings and environment with which they are visually related.
- k. The design of the roof should be visually compatible with the buildings and environment with which it is visually related.
- l. The landscape plan should be sensitive to the individual building, its occupants and their needs. Further, the landscape treatment should be visually compatible with the buildings and environment with which it is visually related.
- m. The street facade should blend with other buildings via directional expression. When adjacent buildings have a dominant horizontal or vertical expression, this expression should be carried over and reflected.
- n. Architectural elements should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

(4) Review and adoption procedure.

- a. Historic preservation commission. The historic preservation commission shall hold a public hearing when considering the plan for an historic district. Notice of the time, place, and purpose of such hearing shall be given by publication as a Class 1 Notice under the Wisconsin Statutes in the official city paper. Notice of the time, place, and purpose of the public hearing shall also be sent by the city clerk to the council member of the aldermanic district or districts in which the historic district is located, and the owners of record, as listed in the Office of the city assessor, who are owners of the property within the proposed historic district or are situated in whole or in part within 100 feet of the boundaries of the proposed historic district. Said notice is to be sent at least ten days prior to the date of the public hearing. Following the public hearing, the historic preservation commission shall vote to recommend, reject, or withhold action on the plan. This recommendation shall be forwarded to the city plan commission and the common council.
- b. The city plan commission. The plan commission shall review the historic district plan and make a recommendation to the common council. The plan commission shall make its recommendation on the historic district plan within 45 days.
- c. The common council. The common council, upon receipt of the recommendation from the historic preservation commission and plan commission, shall hold a public hearing, with notice to be given as noted in subsection a., above, and shall, following the public hearing, either designate or reject the historic district. Designation of the historic

district shall constitute adoption of the plan in ordinance form prepared for that district and direct the implementation of said plan.

Sec. 38-7. - Interim control.

No building permit shall be issued by the building inspector for alteration, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the historic preservation commission at which a nomination form is first presented until the final disposition of the nomination by the historic preservation commission or the common council unless such alteration, removal, or demolition is authorized by formal resolution of the common council as necessary for public health, welfare, or safety. In no event shall the delay be for more than 180 days.

Sec. 38-8. - Conformance with regulations.

(a) Every person in charge of an historic structure, historic site, or improvement in an historic district shall maintain same or cause or permit it to be maintained in a condition consistent with the provisions of this ordinance. The common council may appoint the building inspector or any other individual or group of individuals to enforce this chapter. During the period of the certificate, the duties of the inspection officer may include periodic inspection at intervals provided by the common council of designated historic structures, historic sites, and historic districts.

(b) Every person in charge of an improvement on an historic site or in an historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions thereof which, if not so maintained, may cause, or tend to cause, the exterior portions of such improvement to fall into a state of disrepair, including, but not limited to:

- (1) The deterioration of exterior walls or other vertical supports;
- (2) The deterioration of roofs or other horizontal members;
- (3) The deterioration of external chimneys;
- (4) The deterioration or crumbling of exterior plasters or mortar;
- (5) The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
- (6) The peeling of paint, rotting, holes, and other forms of decay;
- (7) The deterioration of surrounding environment; e.g., fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
- (8) The deterioration of any features so as to create or permit the creation of any hazardous or unsafe condition or conditions; or

(9) All interior portions thereof which may cause the exterior to deteriorate or become damaged or otherwise to fall into a state of disrepair.

(c) The purpose of this section is to prevent the demolition of a building or structure by neglecting it and permitting damage to it by weather or vandalism.

(d) The building inspector shall give the commission notice of properties which, in his/her opinion, are unfit for human habitation, occupancy, or use prior to issuance of any raze orders under state statutes or municipal ordinances.

(e) Insofar as they are applicable to an historic structure, historic site, or improvement in an historic district designated under this section, any provision of the Plumbing Code, the Minimum Housing and Property Maintenance Code, Building Code, Heating, Ventilating and Air Conditioning Code, and Outdoor Signs and Outdoor Advertising Structures regulations of the general ordinances may be varied or waived, on application, by the appropriate board having such jurisdiction over such chapter or, in the absence of such board, by the building inspector, provided such variance or waiver does not endanger public health or safety.

Sec. 38-9. – Appeal of Commission Decision.

An owner of property affected by a decision of the commission may appeal the decision to the Common Council. Such appeal shall be made in writing, and filed with the City Clerk, not later than 24 days after receipt of the Commission decision at issue. The Council may overturn the decision of the Commission by majority vote of the council.

Sec. 38-~~9~~10. - Penalties for violations.

Any person or persons violating any provision of this section may be fined no less than \$200.00 for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the building inspector.

Sec. 38-~~11~~10. - Emergency conditions.

In any case where the building inspector determines that there are emergency conditions dangerous to life, health, or property affecting an historic structure, site, or a property in an historic district, the city may order the remedying of these conditions without the approval of the commission. The city shall promptly notify the commission of the action being taken. When the emergency conditions do not require demolition, the city shall make every effort to carry out the intent of this chapter and to use the design guidelines of the commission when remedying the emergency conditions.

Sec. 38-~~12~~14. - Separability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

ORDINANCE #16-23B

AMENDING VARIOUS PROVISIONS OF CHAPTER 38 DE PERE
MUNICIPAL CODE REGARDING HISTORIC PRESERVATION FOR
CONTINUED CERTIFIED LOCAL GOVERNMENT STATUS

THE COMMON COUNCIL OF THE CITY OF DE PERE, WISCONSIN, DO ORDAIN
AS FOLLOWS:

Section 1: Sec. 38-5(a), *Powers and duties of commission; Designation*, is hereby
amended as follows:

1. By changing the first sentence to read: "The commission shall have the authority to initiate, subject to section 38-6, designation of historic sites and historic structures."
2. By deleting the third sentence of paragraph (a).

Section 2. Sec. 38-6, *Procedures*, is hereby amended as follows:

1. By deleting the phrase "...and with property owner approval..." from the first sentence of paragraph (a)(1).
2. By deleting the phrase "...with approval of the property owner(s)..." from the third sentence of paragraph (a)(2).

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall take effect upon its passage and publication.

Adopted by the Common Council of the City of De Pere, Wisconsin, this 4th day of
October, 2016.

APPROVED:

Michael J. Walsh, Mayor

ATTEST:

Shana D. Ledvina, Clerk-Treasurer

Ayes: _____

Nays: _____

Board/Committee Approval: 09/19/16

Publication Date: _____

Effective Date: _____

Redlined – Continued Certified Local Government Status

Chapter 38 - HISTORIC PRESERVATION[1]

Sec. 38-1. - Purpose and intent of chapter.

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character or special architectural or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the people. The purpose of this section is to:

- (1) Effect and accomplish the protection, enhancement, and perpetuation of such improvements, sites, and districts which represent or reflect elements of the city's cultural, social, economic, political, and architectural history.
- (2) Safeguard the city's historic and cultural heritage as embodied and reflected in such historic structures, sites, and districts.
- (3) Foster civic pride in the notable accomplishments of the past.
- (4) Stabilize and improve property values.
- (5) Protect and enhance the city's attractions to residents, tourists, and visitors, and serve as a support and stimulus to business and industry.
- (6) Improve and enhance the visual and aesthetic character of the city.
- (7) Educate the public regarding the need and desirability of a city historic preservation program and its enhancement of the quality of life.

Sec. 38-2. - Definitions.

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

Certificate of appropriateness means the certificate issued by the commission approving alteration, rehabilitation, construction, reconstruction, or demolition of an historic structure, historic site, or any improvement in an historic district.

City means City of De Pere, Wisconsin.

Commission means the historic preservation commission created under this chapter.

Historic district means an area designated by the common council, on recommendation of the commission, that contains two or more historic improvements or sites.

Historic site means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of humans, or upon which an historic event has occurred, and which has been designated as an historic site under this section, or an improvement parcel, or part thereof, on which is

situated an historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

Historic structure means any improvement which has a special character or special historic interest or value as part of the development, heritage, or cultural characteristics of the city, state, or nation, and which has been designated as an historic structure pursuant to the provisions of this chapter.

Improvement means any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs, and the like.

Improvement parcel means the unit of property which includes a physical betterment constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purpose of levying real estate taxes, provided, however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

Sec. 38-3. - Historic preservation commission; composition.

An historic preservation commission is hereby created, consisting of seven members. Of the membership, if available in the community, one shall be a registered architect; one shall be an historian; one shall be a licensed real estate broker; one shall be a council member; and three shall be citizen members, one of which must reside within an historic district. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The mayor shall appoint the commissioners subject to confirmation by the common council. Of the initial members so appointed, two shall serve a term of one year, two shall serve a term of two years, and three shall serve a term of three years. Thereafter, the term for each member shall be three years.

(Code 1974, § 11.03; Ord. No. 02-01, § 1, 1-2-2002)

Sec. 38-4. - Historic structure, historic site and historic district designation criteria.

(a) For purposes of this chapter, an historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement, or structure located thereon, or any area of particular historic, architectural, archeological, or cultural significance to the city, such as historic structures, sites, or districts which:

- (1) Exemplify or reflect the broad cultural, political, economic, or social history of the nature, state, or community;
- (2) Are identified with historic personages or with important events in national, state, or local history;
- (3) Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship;

(4) Are representative of the notable work of a master builder, designer, or architect who influenced his or her age; or

(5) Have yielded, or may be likely to yield, information important to prehistory or history.

(b) The commission may adopt specific operating guidelines for historic structure, historic site, and historic district designation providing such are in conformance with the provisions of this chapter.

Sec. 38-5. - Powers and duties of commission.

(a) Designation. ~~The commission shall have the authority to initiate. Upon request of the property owner, the commission shall have the power,~~ subject to section 38-6, ~~infra, to~~ designation of historic sites and historic structures ~~and historic sites.~~ The commission shall have the power to recommend designation of historic districts within the city limits. ~~Any designation of an historic site or historic structure shall be with approval of the property owner(s).~~ Such designations shall be made based on section 38-4, supra. Historic districts shall be approved by the common council. Once designated, such historic structures, sites, and districts shall be subject to all the provisions of this chapter.

(b) Regulation of construction, reconstruction, alteration, and demolition.

(1) No owner or person in charge of an historic structure, historic site, or structure within an historic district shall reconstruct, alter, or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties, or cause or permit any such work to be performed upon such property, or demolish such property unless a certificate of appropriateness has been granted by the historic preservation commission. Unless such certificate has been granted by the commission, the building inspector shall not issue a permit for any such work.

(2) Upon filing of any application for a certificate of appropriateness with the commission, the commission shall approve the application unless:

a. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy, or adversely affect any exterior architectural feature of the improvement or site upon which said work is to be done;

b. In the case of the construction of a new improvement upon an historic site or within an historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;

c. In the case of any property located in an historic district, the proposed construction, reconstruction, exterior alteration, or demolition does not conform to the purpose and intent of this chapter and to the objectives and design criteria of the historic preservation plan for said district;

- d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state;
- e. The building or structure is of such old and unusual or uncommon design, texture, and/or material that it could not be reproduced without great difficulty and/or expense;
- f. Except as provided herein, in the case of a request for the demolition of a deteriorated building or structure, any hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair. Upon the request for a demolition permit for a structure determined to be unfit for human habitation, occupancy, or use by any authorized public official or agency, the commission may defer the granting of approval for a period of up to six months from the time of such application, during which time the commission and the property owner shall undertake serious and continuing discussions for the purpose of finding a method to save such property. During such period, the property owner and the commission shall cooperate in attempting to avoid demolition of the property. At the end of this six-month period, if no mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is under way, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the subject property is pending, the building inspector may issue the permit to demolish the subject property without the approval of the commission. If such mutually agreeable method for saving the subject property is not successful or no such funds to preserve the subject property have been obtained and available for disbursement within a period of two months following the end of such six-month period, the building inspector may issue the permit to demolish the subject property without the approval of the commission.

(3) In addition, in determining whether to issue a certificate of appropriateness, the commission shall consider and may give decisive weight to any or all of the following standards:

- a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- d. Most properties change over time. Those changes that have acquired historic significance in their own right shall be retained and preserved.

- e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(4) If the commission determines that the application for a certificate of appropriateness and the proposed changes are consistent with the character and features of the property or district and with the above guidelines, it shall issue the certificate of appropriateness. Upon the issuance of such certificate, the building permit shall then be issued by the building inspector. The commission shall make this decision within 45 days of the filing of the application. Failure of the commission to act upon a request for a certificate of appropriateness within 45 days shall result in the issuance of such certificate.

(5) Agencies of the city and all public utility and transportation companies undertaking projects affecting historic structures, historic sites, or historic districts shall be required to obtain a certificate of appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets owned or franchised by the city.

(6) The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the city. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the certificate of appropriateness required for the proposed work. Insofar as they are applicable to an historic

structure, historic site, or improvement in an historic district designated under this section, any provision of the plumbing code, electrical code, or building or housing of the city shall apply unless waived by the appropriate state or city officials. The commission may support or propose such waivers before the appropriate state or city appeals body.

(7) Compliance with certificates of appropriateness shall be started within 12 months after the issuance of the certificate, and the work shall conform to the provisions of the certificate. The city may inspect the work during and after construction in order to assure compliance. Failure to comply with a certificate of appropriateness or failure to obtain a certificate of appropriateness shall be a violation of this section. In addition to other penalties and remedies, the city shall issue a stop work order, and all work shall cease on the designated property. No additional work shall be undertaken as long as such stop work order shall continue in effect.

(8) Ordinary maintenance and repairs may be undertaken without a certificate of appropriateness provided the work involves repairs to existing features of an historic structure or site, or the replacement of elements of a structure with pieces identical in appearance, and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

(c) Appeals. Should the commission deny a certificate of appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the common council within 30 days. In addition, if the commission denies a certificate of appropriateness, the commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a certificate of appropriateness within the guidelines of this chapter.

(d) Recognition of historic structures, sites, and districts. At such time as an historic structure, site, or district has been properly designated, the commission may cause to be prepared and erected on such property, at city expense, a suitable plaque declaring that such property is an historic structure, site, or district. Such plaque shall be so placed as to be easily visible to passing pedestrians. The plaque shall state the accepted name of the historic property, the date of its construction, and other information deemed proper by the commission.

(e) Other duties. In addition to those duties already specified in this section, the commission shall:

(1) Work for the continuing education of the citizens about the historical heritage of the city and the historic properties designated under the provisions of this chapter.

(2) Cooperate with the state historic preservation officer and the state historic preservation review board in attempting to include such properties hereunder designated as landmarks or landmark sites, or historic districts in the National Register of Historic Places and the State Register of Historic Places.

(3) As it deems advisable, receive and solicit funds for the purpose of historic preservation in the city. Such funds shall be placed in a special city account for such purpose.

Sec. 38-6. - Procedures.

(a) Designation of historic structures and historic sites.

(1) The commission may, after notice and public hearing, ~~and with property owner approval~~, designate historic structures and historic sites or rescind such designation or recommendation after application of the criteria in section 38-4, above. At least ten days prior to such hearing, the commission shall notify the owners of record, as listed in the office of the city assessor, who are owners of property in whole or in part situated within 100 feet of the boundaries of the property affected. These owners shall have the right to confer with the commission prior to final action by the commission on the designation. Notice of such hearing shall also be published as a Class 1 Notice under the Wisconsin Statutes. The commission shall also notify the following: department of public works, redevelopment authority, parks department, fire and police departments, health department, building inspection department, and plan commission. Each such department may respond to the commission with its comments on the proposed designation or rescission.

(2) The commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The commission may conduct an independent investigation into the proposed designation or rescission. Within ten days after the close of the public hearing, the commission may, ~~with approval of the property owner(s)~~, designate the property as either an historic structure or historic site, or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the city clerk, building inspection department, plan commission, and the city assessor. The commission shall cause the designation or rescission to be recorded, at city expense, in the county register of deeds office.

(b) Designation of historic districts.

(1) For preservation purposes, the historic preservation commission shall select geographically defined areas within the city to be designated as historic districts and shall, with the assistance of the city planning department, prepare an historic preservation plan in ordinance form for each area. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city, which:

- a. Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, or community;

- b. Is identified with historic personages or with important events in national, state, or local history;
- c. Embodies the distinguishing characteristics of architectural types or specimens inherently valuable for the study of a period or periods, styles, methods, or construction, or of indigenous materials or craftsmanship;
- d. Is representative of the notable works of master builders, designers, or architects who influenced their age; or
- e. Has yielded, or may be likely to yield, information important to history or prehistory.

(2) Each historic preservation plan prepared for or by the historic preservation commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

(3) Guideline criteria to be considered in the development of historic district plans are as follows:

- a. Regulation of construction, reconstruction, alteration, and demolition shall conform to the criteria and standards in subsections 38-5(b)(1)—(3).
- b. All new structures shall be constructed to a height visually compatible with the building and environment with which they are visually related.
- c. The gross volume of any new structure shall be visually compatible with the buildings and environment with which it is visually related.
- d. In the street elevation of a building, the proportion between the width and height in the facade should be visually compatible with the building and environment with which it is visually related.
- e. The proportions and relationships between doors and windows in the street facade should be visually compatible with the buildings and environment with which it is visually related.
- f. The rhythm of solids to voids, created by openings in the facade, should be visually compatible with the buildings and environment with which they are visually related.
- g. The existing rhythm created by existing building masses and spaces between them should be preserved.
- h. The materials used in the final facade should be visually compatible with the buildings and environment with which they are visually related.
- i. The texture inherent in the facade should be visually compatible with the buildings and environment with which it is visually related.

j. Colors and patterns used on the facade (especially trim) should be visually compatible with the buildings and environment with which they are visually related.

k. The design of the roof should be visually compatible with the buildings and environment with which it is visually related.

l. The landscape plan should be sensitive to the individual building, its occupants and their needs. Further, the landscape treatment should be visually compatible with the buildings and environment with which it is visually related.

m. The street facade should blend with other buildings via directional expression. When adjacent buildings have a dominant horizontal or vertical expression, this expression should be carried over and reflected.

n. Architectural elements should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

(4) Review and adoption procedure.

a. Historic preservation commission. The historic preservation commission shall hold a public hearing when considering the plan for an historic district. Notice of the time, place, and purpose of such hearing shall be given by publication as a Class 1 Notice under the Wisconsin Statutes in the official city paper. Notice of the time, place, and purpose of the public hearing shall also be sent by the city clerk to the council member of the aldermanic district or districts in which the historic district is located, and the owners of record, as listed in the Office of the city assessor, who are owners of the property within the proposed historic district or are situated in whole or in part within 100 feet of the boundaries of the proposed historic district. Said notice is to be sent at least ten days prior to the date of the public hearing. Following the public hearing, the historic preservation commission shall vote to recommend, reject, or withhold action on the plan. This recommendation shall be forwarded to the city plan commission and the common council.

b. The city plan commission. The plan commission shall review the historic district plan and make a recommendation to the common council. The plan commission shall make its recommendation on the historic district plan within 45 days.

c. The common council. The common council, upon receipt of the recommendation from the historic preservation commission and plan commission, shall hold a public hearing, with notice to be given as noted in subsection a., above, and shall, following the public hearing, either designate or reject the historic district. Designation of the historic district shall constitute adoption of the plan in ordinance form prepared for that district and direct the implementation of said plan.

No building permit shall be issued by the building inspector for alteration, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the historic preservation commission at which a nomination form is first presented until the final disposition of the nomination by the historic preservation commission or the common council unless such alteration, removal, or demolition is authorized by formal resolution of the common council as necessary for public health, welfare, or safety. In no event shall the delay be for more than 180 days.

Sec. 38-8. - Conformance with regulations.

(a) Every person in charge of an historic structure, historic site, or improvement in an historic district shall maintain same or cause or permit it to be maintained in a condition consistent with the provisions of this ordinance. The common council may appoint the building inspector or any other individual or group of individuals to enforce this chapter. During the period of the certificate, the duties of the inspection officer may include periodic inspection at intervals provided by the common council of designated historic structures, historic sites, and historic districts.

(b) Every person in charge of an improvement on an historic site or in an historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions thereof which, if not so maintained, may cause, or tend to cause, the exterior portions of such improvement to fall into a state of disrepair, including, but not limited to:

- (1) The deterioration of exterior walls or other vertical supports;
- (2) The deterioration of roofs or other horizontal members;
- (3) The deterioration of external chimneys;
- (4) The deterioration or crumbling of exterior plasters or mortar;
- (5) The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
- (6) The peeling of paint, rotting, holes, and other forms of decay;
- (7) The deterioration of surrounding environment; e.g., fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
- (8) The deterioration of any features so as to create or permit the creation of any hazardous or unsafe condition or conditions; or
- (9) All interior portions thereof which may cause the exterior to deteriorate or become damaged or otherwise to fall into a state of disrepair.

(c) The purpose of this section is to prevent the demolition of a building or structure by neglecting it and permitting damage to it by weather or vandalism.

(d) The building inspector shall give the commission notice of properties which, in his/her opinion, are unfit for human habitation, occupancy, or use prior to issuance of any raze orders under state statutes or municipal ordinances.

(e) Insofar as they are applicable to an historic structure, historic site, or improvement in an historic district designated under this section, any provision of the Plumbing Code, the Minimum Housing and Property Maintenance Code, Building Code, Heating, Ventilating and Air Conditioning Code, and Outdoor Signs and Outdoor Advertising Structures regulations of the general ordinances may be varied or waived, on application, by the appropriate board having such jurisdiction over such chapter or, in the absence of such board, by the building inspector, provided such variance or waiver does not endanger public health or safety.

Sec. 38-9. - Penalties for violations.

Any person or persons violating any provision of this section may be fined no less than \$200.00 for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the building inspector.

Sec. 38-10. - Emergency conditions.

In any case where the building inspector determines that there are emergency conditions dangerous to life, health, or property affecting an historic structure, site, or a property in an historic district, the city may order the remedying of these conditions without the approval of the commission. The city shall promptly notify the commission of the action being taken. When the emergency conditions do not require demolition, the city shall make every effort to carry out the intent of this chapter and to use the design guidelines of the commission when remedying the emergency conditions.

Sec. 38-11. - Separability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

City of De Pere MEMORANDUM



To: Common Council
From: Peter Schleinz, City Planner
Date: September 20, 2016

RE: **Recommendation from the Historic Preservation Commission to approve revisions to the Historic Preservation Ordinance to allow the Historic Preservation Commission to designate historic buildings with the awareness of property owners.**

During the August 15, 2016 and September 19, 2016 Historic Preservation Committee meetings, the Historic Preservation Commission discussed proposed text revisions for Historic Preservation Ordinance Sections 38-5, 38-6, and 38-9, as well as the renumbering of Sections 38-9 through 38-12. The attached DRAFT Ordinance demonstrates the proposed text revisions redlined.

The proposed text revisions are necessary in order for the City of De Pere to retain its status as a Certified Local Government (CLG), and retain the City's eligibility for sub-grants from the Wisconsin Historical Society. The \$19,000 Intensive Survey sub-grant, awarded to the City of De Pere in 2016, is an example of a sub-grant that would no longer be available to the City.

In summary, the proposed text revisions include the following:

- A format for the Historic Preservation Commission to designate local historic properties and sites.
- A method for the Common Council to override Historic Preservation Commission recommendations.
- A procedure for notifying a property owner about a proposed historic designation.
- A procedure for a private property owner to appeal a historic designation recommendation.

As a courtesy, on August 31, 2016, City staff mailed 242 letters to property owners of the following historic districts and properties, informing the property owners of the proposed text revisions as well as proposed Historic Preservation Commission and Common Council meeting dates:

- North Broadway Historic District
- N. Michigan -- N. Superior Historic District
- Randall Avenue Historic District
- De Pere Lock and Dam
- Old De Pere Library, LLC, St. Norbert Main Hall, Lawton Foundry, Union Hotel

Contact information for the City Planner was provided in the letter in case the property owners had questions or comments. As of September 19, 2016, questions or comments were received (via telephone and/or e-mail) from Mary Baeten, a property owner in the Randall Avenue Historic District and from Jennifer Sunstrom, the Governmental Affairs Director of the Realtors Association of North East Wisconsin (RANW). The property owner opposed the text revisions with concerns related to loss of property rights and the RANW representative had general questions about the source location for the ordinance as well as documents that triggered the need for the proposed text revisions, which were

provided by staff. Two notification letters were returned to City Hall as undeliverable. Also, five residents attended the September 19, 2016 Historic Preservation Commission meeting for information but did not formally express an opinion when the Historic Preservation Commission meeting was opened for public input.

The review process for Ordinance text revisions is as follows:

1. Historic Preservation Commission reviews the Ordinance text revisions.
 - a. The Historic Preservation Commission reviewed the text revisions on August 15, 2016 and September 19, 2016. The Commission recommended approval of the Ordinance text revision by a vote of 3-2 on September 19, 2016
2. The Common Council reviews and approves or rejects the proposed text revisions for the Historic Preservation Ordinance.

Historic Preservation Commission Recommendation:

The Historic Preservation recommends approval of the proposed text revisions for the Historic Preservation Ordinance.

GENERAL INFORMATION

Certified Local Government (CLG) Historic Preservation Program in Wisconsin

PRINT EMAIL A FRIEND FACEBOOK TWITTER MORE...

The Wisconsin State Historic Preservation Officer (SHPO) administers the Certified Local Government program for the National Park Service in Wisconsin. The federal law creating the Certified Local Government program can be found in 36 CFR Part 61, Section 61.5 "Approved Local Programs."

A Certified Local Government (CLG) is any city, village, county or town that has been certified by the SHPO and the Department of the Interior to meet these basic criteria:

- Establish by ordinance a qualified historic preservation commission
- Enforce appropriate state or local legislation for the designation and protection of historic properties
- Maintain a system for the survey and inventory of local historic resources
- Provide for public participation in the local historic preservation program

Wisconsin Requirements for Certified Local Governments

Federal law allows the state to establish additional requirements for CLGs. The CLG must adhere to all of the federal and state requirements or the SHPO may revoke the CLG certification. The Wisconsin SHPO has established these additional requirements:

1. The CLG must enact and enforce a historic preservation ordinance that regulates historic property.
2. A CLG must provide annual reporting to the SHPO on CLG activities.
3. A CLG must send copies of meeting minutes and agendas to the SHPO following each meeting.
4. The ordinance must not allow historic property owners to "opt-out" of local historic designation.
5. Designation must not require owner consent.
6. The commission must approve work on locally designated properties and recommendations may not be "advisory."

What are the Benefits of CLG Status?

- Eligibility to apply for Wisconsin Historic Preservation Fund Subgrants from the federal Historic Preservation Fund allocation to the state, to be used for eligible CLG activities.
- Ability to formally comment on National Register of Historic Places nominations within its municipal boundaries before they are sent to the State Historic Preservation Review Board.
- Eligibility to authorize the use of Chapter 11 of the International Existing Building Code for locally designated historic buildings.

Is My Community Already a CLG?

A searchable database of CLGs nationwide can be found through the National Park Service CLG search page . You can also view a map (217 KB, PDF) of all Wisconsin CLGs.

Learn More

[How Does My Community Become a Certified Local Government?](#)

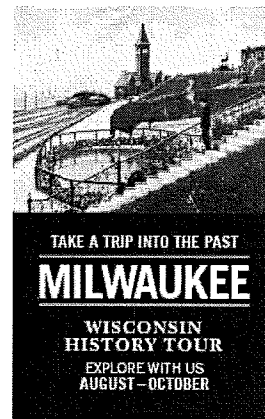
[How to Apply for Historic Preservation Fund Subgrants for Certified Local Governments](#)

[Certified Local Government \(CLG\) Subgrant Criteria](#)

Have Questions?

Contact Joe DeRose by phone at 608-264-6512 or by email below:

joe.derose@wisconsinhistory.org



CITY OF DE PERE

MEMO

To: Mike Fleck, Chair
 Members of the Historic Preservation Commission
 From: Judith Schmidt-Lehman, City Attorney
 RE: 2015 Wisconsin Act 176 language regarding appeal of Historic Preservation
 Commission Action to the Common Council
 Date: September 19, 2016

On August 15, 2016, the Commission reviewed proposed revisions to the Historic Preservation Ordinance [Chapter 38 De Pere Municipal Code (DPMC)] made necessary to maintain the Commission's Certified Local Government status and by 2015 Act 176. The Commission requested clarification of the language used in proposed new §38-9 DPMC, which reads:

Sec. 38-9. – Appeal of Commission Decision.

An owner of property affected by a decision of the Commission may appeal the decision to the Common Council. Such appeal shall be made in writing, and filed with the City Clerk, not later than 24 days after receipt of the Commission decision at issue. The Council may overturn the decision of the Commission by majority vote of the Council.

The question, as I understand it, is whether the phrase “(a)n owner of property affected by a decision of the Commission” is limited to the owner of the property that is the object of a Commission decision or whether that phrase is intended to apply to other “affected” property owners. For the reasons set forth below, I believe the intent of the state legislature is that this phrase is meant to apply more broadly to *any* property owner affected by a decision of the Commission.

2015 Wisconsin Act 176 made two substantive changes to state law concerning Historic Preservation Commissions. This Act requires that a public hearing be held before an historic site or district may be designated, including notifying the “...owner of the place, structure or object ...” by mail of the time and place of the public hearing. The language used by the legislature in requiring mailing of a public hearing notice is clearly intended to apply to the owner of the property which is of an historic designation.

The second change made by 2015 Wisconsin Act 176 concerns the appeal language. The language used by the legislature for this change is:

62.23 (7) (em)3. An owner of property affected by a decision of a city landmark commission may appeal the decision to the common council. The common council may overturn a decision of the commission by majority vote of the council.

Had the legislature intended this section to apply only to the owner of the property that is the object of the decision, they could have used the same language used in the provision regarding mailing of the public hearing notice. However, it did not. Rather, the language used by the legislature in drafting this requirement is different; namely appeal rights apply to “*an* owner” of property affected rather than “*the* owner” of property affected (emphasis added.) Under the rules of statutory construction, the legislature is presumed to have used the words intended and the

words so used are to be given their effect if at all possible. Use of the word “an” rather than “the” indicates that the legislature intended the class of persons eligible for appeal to include property owners in addition to the owner of the object of the decision, provided they are “affected” by the decision.

There may be property owners other than the owner of the object of the decision affected by a decision of the commission. This is not to say however that *any* claim of being “affected” by a decision will give a right to appeal. Rather, in order to pursue an appeal, a property owner other than the owner of the object of the commission decision must have legal standing to do so. Under Wisconsin law, “standing” sufficient to pursue a legal action means the person must (1) have a personal interest (stake) in the controversy; (2) that personal interest will be adversely affected; and (3) the personal interest is one which public policy calls for protection.¹ Examples of standing sufficient to meet this test would include financial or property right impacts. Whether standing exists will be analyzed on a case by case basis.

In conclusion, I believe the legislature intended the right to appeal a commission decision to apply broadly to any property owner that could legitimately claim an adverse “affect” by the commission decision. Had the legislature intended the right to appeal to apply only to the owner of the object of the commission decision, it would have used the word “the” instead of “an”.

If you have any other questions or other concerns, please let me know.

H:\azills\Memos\2016\Chair Fleck-HPC Members 2015 WI ACT 176 Analysis -9-19-16-119-100-02.docx

¹*Foley-Ciccantelli v. Bishop’s Grove Condo. Ass’n*, ¶15, 2011 WI 36.

CITY OF DE PERE

335 South Broadway
De Pere, WI 54115
Fax No.: 920/339-4049
Web: <http://www.de-pere.org>



August 31, 2016

RE: City of De Pere Historic Preservation Commission Meeting for a text revision to the Historic Preservation Ordinance

Dear Property Owner:

This mailing has been sent to inform you that the City of De Pere Historic Preservation Commission (HPC) is reviewing proposed changes to the Historic Preservation Ordinance. The proposed changes include the following:

- A format for the HPC to designate local historic properties and sites.
- A method for the Common Council to override a HPC recommendation.
- A procedure for a private property owner to appeal a historic designation recommendation.

The purpose for the proposed ordinance revisions is to allow the City of De Pere to retain its existing Certified Local Government (CLG) status and retain the ability to obtain historic preservation related grants from the Wisconsin Historical Society. The proposed ordinance revisions will be discussed at the following meetings:

1. **Historic Preservation Commission – September 19, 2016 at 6:00 PM.**
2. **City Council – October 4, at 7:30 PM.** *(if recommended by HPC in September)*

Both meetings are located in the Council Chambers on the second floor of De Pere City Hall.

As a courtesy, this letter has been mailed to property owners in the following historic districts and properties:

- | | |
|--|------------------------------------|
| • North Broadway Historic District | • Randall Avenue Historic District |
| • N. Michigan – N. Superior Street Historic District | • De Pere Lock and Dam |
| • Old De Pere Library LLC, St. Norbert Main Hall | • Lawton Foundry, Union Hotel |

A DRAFT sample of the proposed ordinance changes is printed on the back of this letter. The full ordinance, with draft changes shown, is available for preview in hard copy at the De Pere City Hall. You are welcome to attend the meetings to learn about the proposal and to provide comments. If you have any additional questions or comments regarding the proposal, please contact me at (920) 339-4043 or pschleinz@mail.de-pere.org.

Respectfully,

Peter Schleinz
City Planner

For your convenience, the following “*redlined text*” represents the proposed changes for the Historic Preservation Ordinance Sections 38-5(a), 38-6(a), and 38-9:

DRAFT Section 38-5(a) changes:

(a) *Designation.* ~~The commission shall have the authority to initiate. Upon request of the property owner, the commission shall have the power,~~ subject to section 38-6, infra, ~~to designation e of~~ historic sites and historic structures ~~and historic sites~~. The commission shall have the power to recommend designation of historic districts within the city limits. All owners of an historic site or an historic structure for which historic designation is proposed shall be provided with notice of the proposed designation prior to commission action on the designation. Such designations shall be made based on section 38-4, supra. Historic districts shall be approved by the common council. Once designated, such historic structures, sites, and districts shall be subject to all the provisions of this chapter.

DRAFT Section 38-6(a) changes:

(a) *Designation of historic structures and historic sites.*

(1) The commission may, after notice and public hearing, designate historic structures and historic sites or rescind such designation or recommendation after application of the criteria in section 38-4, above. At least ten days prior to such hearing, the commission shall notify the owners of record, as listed in the office of the city assessor, who are owners of property in whole or in part situated within 100 feet of the boundaries of the property affected of the proposed designation and of the time and place of the public hearing. These owners shall have the right to confer with the commission prior to final action by the commission on the designation. Notice of such hearing shall also be published as a Class 1 Notice under the Wisconsin Statutes. The commission shall also notify the following: department of public works, redevelopment authority, parks department, fire and police departments, health department, building inspection department, and plan commission. Each such department may respond to the commission with its comments on the proposed designation or rescission.

(2) The commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The commission may conduct an independent investigation into the proposed designation or rescission. Within ten days after the close of the public hearing, the commission may designate the property as either an historic structure or historic site, or rescind the designation. After the designation or rescission has been made, official notification shall be sent to the property owner or owners, ~~and, Notification shall also be given~~ to the city clerk, building inspection department, plan commission, and the city assessor. The commission shall cause the designation or rescission to be recorded, at city expense, in the county register of deeds office.

(3) The Common Council may overturn the decision of the Commission by a majority vote of the Council.

Draft 38-9 changes (added new section):

Sec. 38-9. – Appeal of Commission Decision.

An owner of property affected by a decision of the Commission may appeal the decision to the Common Council. Such appeal shall be made in writing, and filed with the City Clerk, not later than 24 days after receipt of the Commission decision at issue. The Council may overturn the decision of the Commission by majority vote of the council.

City of De Pere, Wisconsin

**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: Common Council

FROM: Peter Schleinz

SUBJECT: Resolution #16-104, Regarding the Vacation of a Portion of a Public Thoroughfare (Railroad Spur 500 Block of Fortune Avenue).

On September 26, 2016 the Plan Commission recommended, by a vote of 6-0, that the proposed Right-Of-Way Vacation in the City of De Pere be approved.

ATTACHMENTS:

- Reso16-104 (DOCX)
- ExhibitsA-B-VacationofRR Spur (PDF)
- Mayor & CC- vacation- Rail Right-of-Way 10-4-16 (DOCX)
- Right-Of-Way Vacation (Spur) - City of De Pere - Plan Commission Report FINAL (DOCX)
- Legal Description and Map for Railroad Spur Vacation (PDF)

RESOLUTION #16-104

REGARDING THE VACATION OF A PORTION OF A PUBLIC THOROUGHFARE
(Railroad Spur 500 Block of Fortune Avenue)

WHEREAS, the Common Council of the City of De Pere has initiated the vacation and discontinuance of a portion of a public thoroughfare in accordance with the requirements of Wis. Stats. §66.1003(4)(a); and

WHEREAS, the public interest may require the vacation of such right-of-way; and

WHEREAS, the Plan Commission has reviewed and recommended approval of such vacation and discontinuance, with a public hearing on said vacation to be held in accordance with Wis. Stats. §66.1003(4)(b), on _____, 2016 at 7:35 p.m.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

Section 1. The portion of the 500 Block of Fortune Avenue, which contains a railroad spur located northeast from the Fortune Avenue and American Boulevard intersection, West Side of Fox River, City of De Pere, Brown County, Wisconsin more fully described on Exhibit A, attached hereto and incorporated by reference herein, be and the same is hereby wholly vacated and discontinued as a public thoroughfare. Said public right-of-way to be vacated is shown on the scale map attached hereto and incorporated by reference herein as Exhibit B.

Section 2. The City Clerk-Treasurer is hereby authorized and directed to file and record this resolution, with the legal description and map attached, in the Office of the Register of Deeds for Brown County and to amend the Official Map of the City in conformity with this Resolution.

Resolution #16-104

Page 2 of 2

Introduced to the Common Council of the City of De Pere at its regular meeting held on the 4th day of October, 2016.

Adopted by the Common Council of the City of De Pere, Wisconsin, this _____ day of _____, 2016.

APPROVED:

Michael J. Walsh, Mayor

ATTEST:

Shana D. Ledvina, Clerk-Treasurer

Ayes: _____

Nays: _____

Attachment: Reso16-104 (5147 : Reso #16-104, Regarding the Vacation of a Portion Public Thoroughfare-RR Spur-500 Blk Fortune Av)

VACATION OF RAILROAD SPUR
LEGAL DESCRIPTION

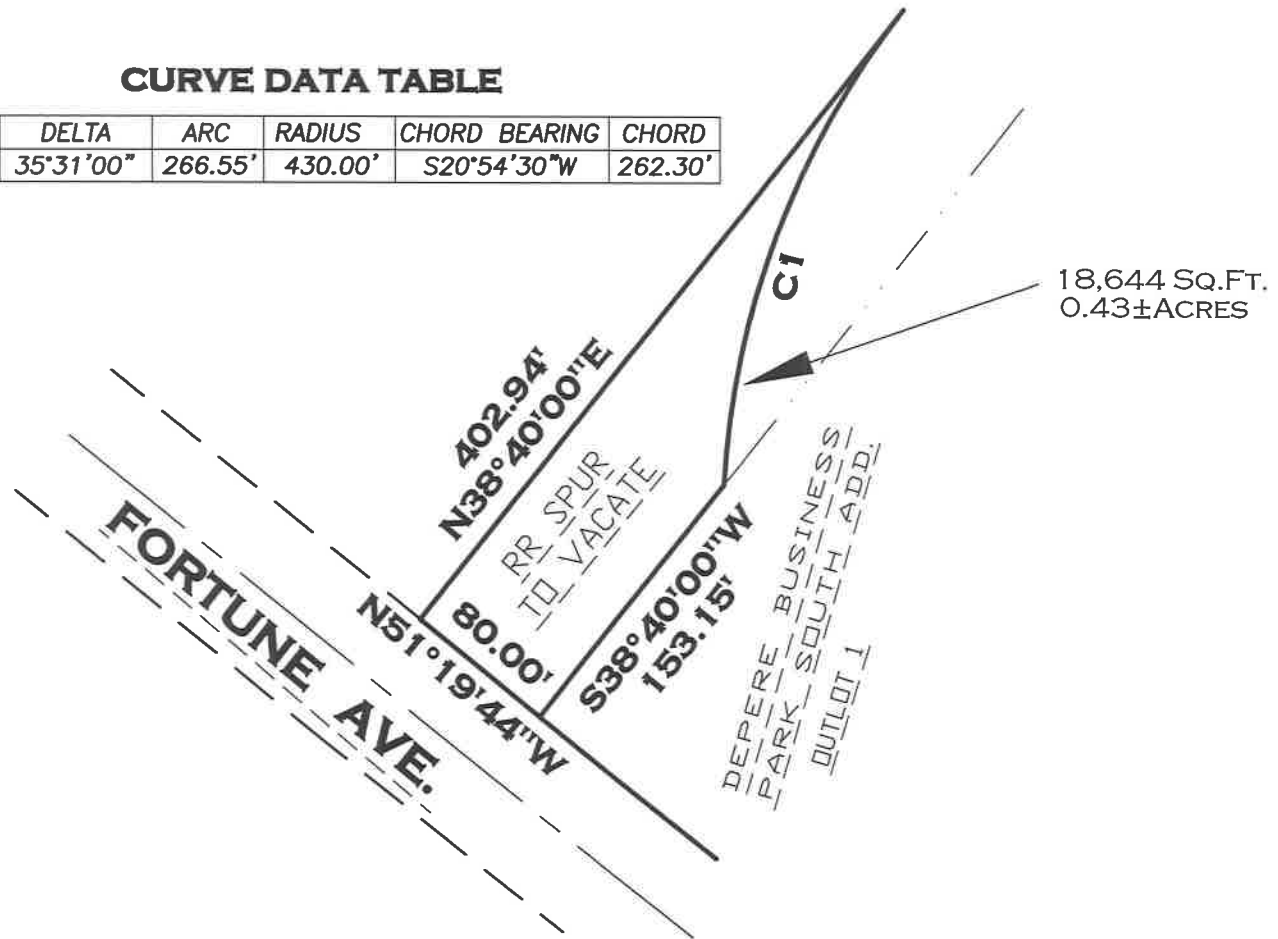
Part of De Pere Business Park South Addition being a part of a "Dedicated to the Public - Railroad Spur being located in part of the Northeast ¼ of the Northwest ¼ of Section 32, T23N, R20E, City of De Pere, Brown County, Wisconsin described as follows:

Beginning at the Southwest corner of Outlot 1, De Pere Business Park South Addition;
thence N51°19'44"W, 80.00 feet on the northerly right of way of Fortune Ave. to the westerly line of said railroad spur;
thence N38°40'00"E, 402.94 feet on said westerly right of way;
thence 266.55 feet on the arc of a 430.00 foot radius curve to the left, having a long chord that bears S20°54'30"W, 262.30 feet to the westerly line of said Outlot 1;
thence S38°40'00"W, 153.15 feet on said westerly line to the POINT OF BEGINNING.

Said area to vacate contains 18,644 square feet or 0.43 acres of land more or less.

CURVE DATA TABLE

CURVE	DELTA	ARC	RADIUS	CHORD BEARING	CHORD
C1	35°31'00"	266.55'	430.00'	S20°54'30"W	262.30'



CITY OF DE PERE**MEMO**

To: Michael J. Walsh, Mayor
Members of the Common Council
From: Judith Schmidt-Lehman, City Attorney
RE: Resolution 16-104 Vacating a Portion of Railroad Right-of-Way
Date: October 4, 2016

The statutory process for the City to initiate a right-of-way vacation is a bit out of the ordinary. Since the City Council does not often vacate right-of-way, I thought I would send along this memo to explain the process.

Under Wis. Stats. §66.1003, the City may initiate vacating right-of-way. This is done by the Council introducing the vacation resolution at a Council meeting. The matter is then set for public hearing, with the same resolution coming back before the Council for action at that public hearing.

Therefore, the action to be taken at the October 4, 2016 meeting as to the above Resolution is merely to refer the Resolution forward for a public hearing. It will then be placed on the Council agenda at the time of public hearing, at which time the merits of the vacation can be debated and acted upon.

If you have any questions regarding this process, please let me know.

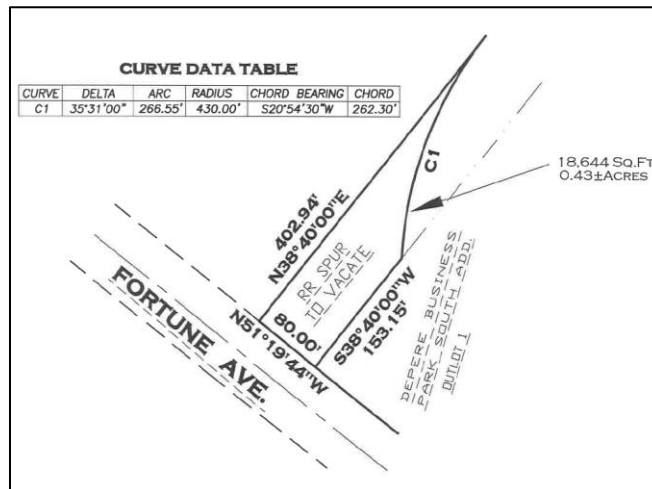
JSL

ITEM: Review and recommendation for a Proposed Right-Of-Way Vacation for a former Railroad Spur at 500 BLK Fortune Avenue in De Pere (Parcel WD-D0079-A). Submitted by City of De Pere.*

SITE MAP



PROPOSED RIGHT-OF-WAY VACATION



REQUESTED ACTION: Right-Of-Way Vacation Approval.*

COMMON DESCRIPTION: 500 BLK Fortune Avenue, a railroad spur located northeast from the Fortune Avenue and American Boulevard intersection.

**City of De Pere
Staff Comments**

**Plan Commission
September 26, 2016**

PARCEL NUMBER(S):	WD-D0079-A
EXISTING ZONING:	I-B-1 (Industrial Business-1 District) In Tax Increment Financing District # 11 (TID #11)
PROPOSED ZONING:	None
SURROUNDING LAND USES:	Industrial to the north and west. Vacant to the south and east.
COMPREHENSIVE PLAN:	Business Park
APPLICANT NAME:	City of De Pere
SITE HISTORY:	After a review of air photographs, the property was dedicated as a right-of-way for use as a future railroad spur, but the railroad ended up being routed to the east. The dedicated right-of-way is no longer needed. If the right-of-way is vacated the entire right-of-way will be attached to Parcel WD-1049, which is owned by the City of De Pere.
STAFF REVIEW:	When reviewing a Right-Of-Way vacation, staff utilizes the vacation process identified in Wisconsin State Statutes 66.103 and 66.105. The role of the Plan Commission in the process is determining if such a vacation is necessary, and if so, recommending to the Common Council that the right-of-way be vacated. A vacation resolution will be reviewed by the Common Council twice, with a public hearing and adjacent property owners being notified. For this vacation, there are three adjacent owners, including the City of De Pere.
STAFF RECOMMENDATION:	Staff recommends APPROVAL and forwarding the right-of-way vacation to the Common Council for final approval. There are no conditions of approval.

VACATION OF RAILROAD SPUR
LEGAL DESCRIPTION

Part of De Pere Business Park South Addition being a part of a "Dedicated to the Public - Railroad Spur being located in part of the Northeast ¼ of the Northwest ¼ of Section 32, T23N, R20E, City of De Pere, Brown County, Wisconsin described as follows:

Beginning at the Southwest corner of Outlot 1, De Pere Business Park South Addition;
thence N51°19'44"W, 80.00 feet on the northerly right of way of Fortune Ave. to the westerly line of said railroad spur;
thence N38°40'00"E, 402.94 feet on said westerly right of way;
thence 266.55 feet on the arc of a 430.00 foot radius curve to the left, having a long chord that bears S20°54'30"W, 262.30 feet to the westerly line of said Outlot 1;
thence S38°40'00"W, 153.15 feet on said westerly line to the POINT OF BEGINNING.

Said area to vacate contains 18,644 square feet or 0.43 acres of land more or less.

VACATION OF RAILROAD SPUR
LEGAL DESCRIPTION

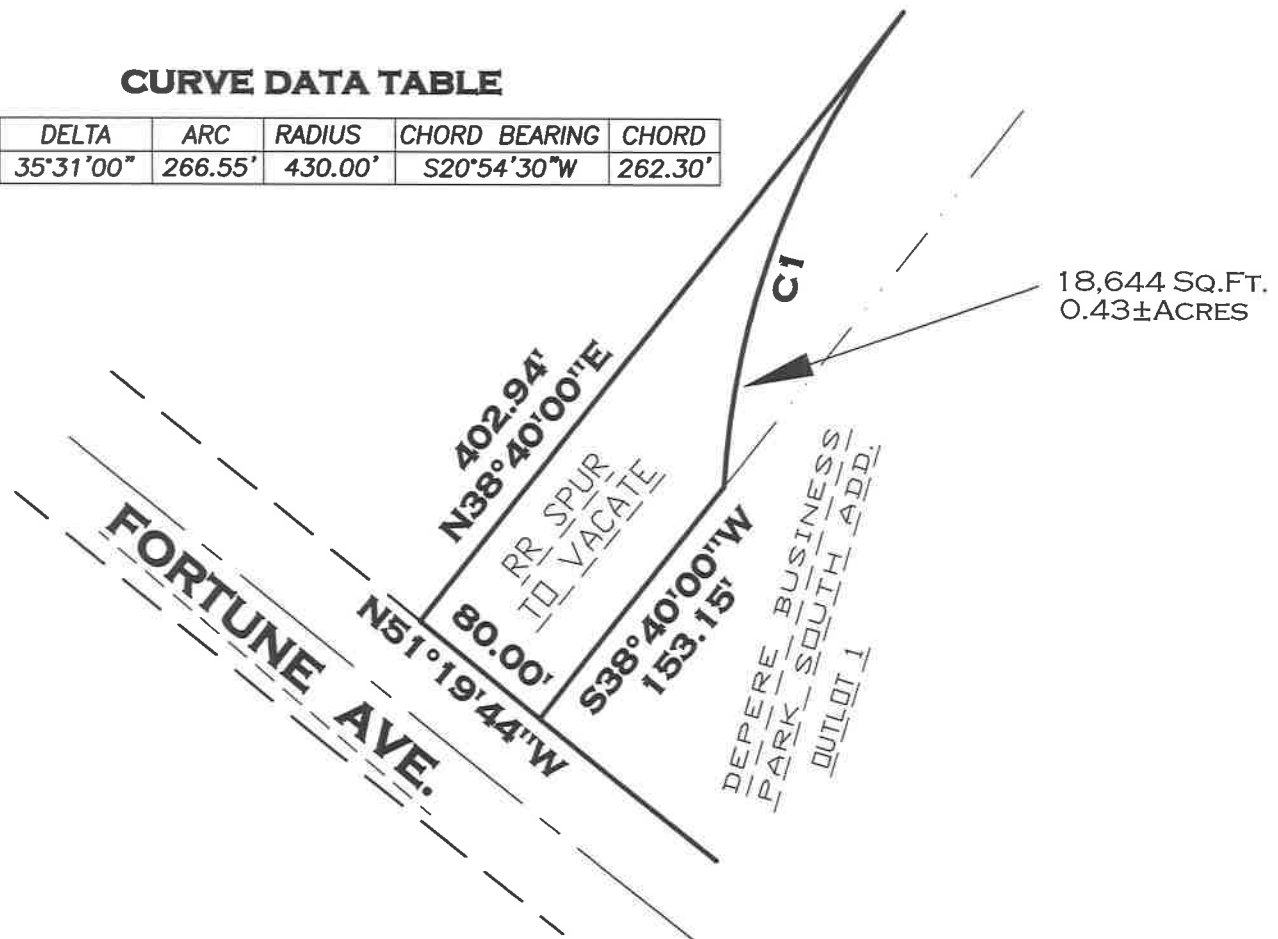
Part of De Pere Business Park South Addition being a part of a "Dedicated to the Public - Railroad Spur being located in part of the Northeast ¼ of the Northwest ¼ of Section 32, T23N, R20E, City of De Pere, Brown County, Wisconsin described as follows:

Beginning at the Southwest corner of Outlot 1, De Pere Business Park South Addition;
 thence N51°19'44"W, 80.00 feet on the northerly right of way of Fortune Ave. to the westerly line of said railroad spur;
 thence N38°40'00"E, 402.94 feet on said westerly right of way;
 thence 266.55 feet on the arc of a 430.00 foot radius curve to the left, having a long chord that bears S20°54'30"W, 262.30 feet to the westerly line of said Outlot 1;
 thence S38°40'00"W, 153.15 feet on said westerly line to the POINT OF BEGINNING.

Said area to vacate contains 18,644 square feet or 0.43 acres of land more or less.

CURVE DATA TABLE

CURVE	DELTA	ARC	RADIUS	CHORD BEARING	CHORD
C1	35°31'00"	266.55'	430.00'	S20°54'30"W	262.30'



City of De Pere, Wisconsin

**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: Common Council

FROM: Peter Schleinz

SUBJECT: Resolution #16-105, Regarding the Vacation of a Portion of a Public Thoroughfare (2100 Block of Richco Road).

On September 26, 2016 the Plan Commission recommended, by a vote of 6-0, that the proposed Right-Of-Way Vacation in the City of De Pere be approved.

ATTACHMENTS:

- Reso16-105 (DOCX)
- EXHIBIT A-Vaction of 2100 Richco Road (DOCX)
- Exhibit B-Vacated Richco Road (PDF)
- Mayor & CC-street vacation- Richco Rd 10-4-16 (DOCX)
- Right-Of-Way Vacation (Street) - City of De Pere - Plan Commission Report FINAL (DOCX)
- 0404415ROAD (DOC)
- 0404415_vacate_70_foot_st (PDF)

RESOLUTION #16-105

REGARDING THE VACATION OF A PORTION OF A PUBLIC THOROUGHFARE
(2100 Block of Richco Road)

WHEREAS, the Common Council of the City of De Pere has initiated the vacation and discontinuance of a portion of a public thoroughfare in accordance with the requirements of Wis. Stats. §66.1003(4)(a); and

WHEREAS, the public interest may require the vacation of such rights-of-way; and

WHEREAS, the Plan Commission has reviewed and recommended approval of such vacation and discontinuance, with a public hearing on said vacation to be held in accordance with Wis. Stats. §66.1003(4)(b), on _____, 2016 at 7:35 p.m.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

Section 1. The portion of the 2100 Block of Richco Road, located south of Richco Road and Red Maple Road intersections, West Side of Fox River, City of De Pere, Brown County, Wisconsin more fully described on Exhibit A, attached hereto and incorporated by reference herein, be and the same is hereby wholly vacated and discontinued as a public thoroughfare. All stormwater and other utility easements as shown on Certified Survey Map Volume _____, Page _____, Map No. _____ are retained. Said public right-of-way to be vacated is shown on the scale map attached hereto and incorporated by reference herein as Exhibit B.

Section 2. The City Clerk-Treasurer is hereby authorized and directed to file and record this resolution, with the legal description and map attached, in the Office of the Register of Deeds for Brown County and to amend the Official Map of the City in conformity with this Resolution.

Resolution #16-105
Page 2 of 2

Introduced to the Common Council of the City of De Pere at its regular meeting held on the 4th day of October, 2016.

Adopted by the Common Council of the City of De Pere, Wisconsin, this _____ day of _____, 2016.

APPROVED:

Michael J. Walsh, Mayor

ATTEST:

Shana D. Ledvina, Clerk-Treasurer

Ayes: _____

Nays: _____

EXHIBIT A

Part of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, part of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, Section 5, Township 22 North, Range 20 East, City of De Pere, Brown County, Wisconsin described as follows:

Commencing at the North $\frac{1}{4}$ Corner of said Section 5;
 thence N89°02'55"W, 154.02 feet on the north line of said Section 5;
 thence S38°39'17"W, 75.84 feet to the northeast corner of Lot 1 of Volume 58 of Certified Survey Maps, Page 29;
 thence N89°02'55"W, 688.93 feet along the south right of way of Red Maple Road to the POINT OF BEGINNING;
 thence on the easterly right of way of Richco Road, 10.96 feet on the arc of a 12.00 foot radius curve to the left, having a long chord of S64°47'00.5"W, 10.58 feet;
 thence S38°36'56"W, 827.03 feet on said right of way;
 thence N51°21'16"W, 0.83 feet on said right of way;
 thence S38°39'17"W, 291.16 feet on said right of way;
 thence 100.40 feet along the arc of a 75.00 foot radius curve to the left, having a long chord of N09°12'38.5"W, 93.07 feet to the westerly right of way of Richco Road;
 thence N38°36'56"E, 938.14 feet on said westerly right of way;
 thence N00°56'41"E, 54.96 feet on said westerly right of way to the southerly right of way of Red Maple Road;
 thence S89°02'55"E, 136.75 feet on said southerly right of way to the POINT OF BEGINNING.

Said parcel contains 74,513 square feet or 1.710 acres of land more or less.

Robert E. Lee & Associates, Inc.
ENGINEERING, SURVEYING, ENVIRONMENTAL SERVICES
1250 CENTENNIAL CENTRE BLVD.
HOBART, WI 54155
INTERNET: www.releeinc.com PHONE: (920) 662-9641
FAX: (920) 662-9141

CITY OF DE PERE

MEMO

To: Michael J. Walsh, Mayor
Members of the Common Council
From: Judith Schmidt-Lehman, City Attorney
RE: Resolution 16-105 Vacating a Portion of Richco Road
Date: October 4, 2016

The statutory process for the City to initiate a street vacation is a bit out of the ordinary. Since the City Council does not vacate street right-of-way often, I thought I would send along this memo to explain the process.

Under Wis. Stats. §66.1003, the City may initiate vacating street right-of-way. This is done by the Council introducing the vacation resolution at a Council meeting. The matter is then set for public hearing, with the same resolution coming back before the Council for action at that public hearing.

Therefore, the action to be taken at the October 4, 2016 meeting as to the above Resolution is merely to refer the Resolution forward for a public hearing. It will then be placed on the Council agenda at the time of public hearing, at which time the merits of the vacation can be debated and acted upon.

If you have any questions regarding this process, please let me know.

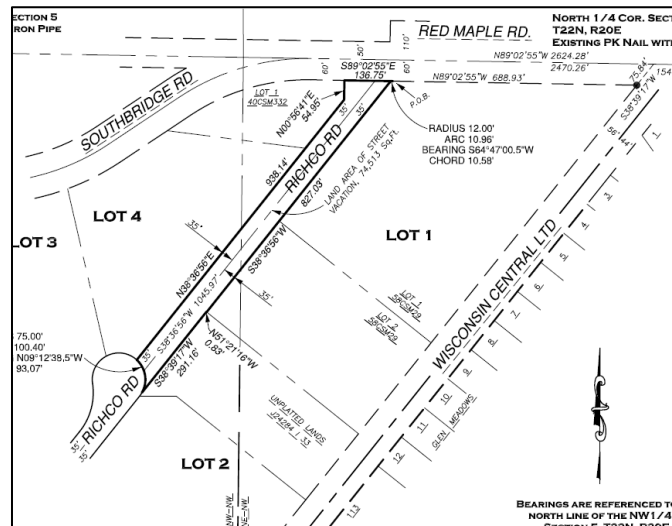
JSL

ITEM: Review and recommendation for a Proposed Right-Of-Way Vacation for a public street at 2100 BLK Richco Road in De Pere (Parcel - None). Submitted by City of De Pere.*

SITE MAP



PROPOSED RIGHT-OF-WAY VACATION



REQUESTED ACTION: Right-Of-Way Vacation Approval.*

COMMON DESCRIPTION: 2100 BLK Richco Road, located south from the Richco Road and Red Maple Road intersection

PARCEL NUMBER(S):	None
EXISTING ZONING:	None. Adjacent to I-3 (General Industrial District) In Tax Increment District (TID) #11
PROPOSED ZONING:	None.
SURROUNDING LAND USES:	Industrial and vacant to the north, south, and west. Residential to the east.
COMPREHENSIVE PLAN:	Industrial Park and Business Park
APPLICANT NAME:	City of De Pere
SITE HISTORY:	After a review of air photographs, the property was dedicated as a right-of-way for use as public street. The primary use was for the industrial properties on adjacent to the street. The City is proposing to build a storm water management pond and create four lots via certified survey map. The Plan Commission is reviewing the Certified Survey Map on September 26, 2016. This section of Richco Road is no longer necessary. The new cul de sac will provide access to the properties. The removal of the access point on Red Maple Road is occurring as a precursor to the Southern Bridge, preparing the Red Maple Corridor as a limited access road. The vacation will still allow property owners to access their lots with private driveways while minimizing the costs of the property owner paying the City to rebuild and maintaining a public right-of-way. If the right-of-way is vacated the right-of-way will be split between property owners on each side of the street.
STAFF REVIEW:	When reviewing a Right-Of-Way vacation, staff utilizes the vacation process identified in Wisconsin State Statutes 66.103 and 66.105. The role of the Plan Commission in the process is determining if such a vacation is necessary, and if so, recommending to the Common Council that the right-of-way be vacated. A vacation resolution will be reviewed by the Common Council twice, first as a resolution, and then with a public hearing (adjacent property owners will be notified). For this vacation, there are two adjacent owners, including the City of De Pere and KC Stock (KCS Inc.).
STAFF RECOMMENDATION:	Staff recommends APPROVAL and forwarding the right-of-way vacation to the Common Council for final approval. There are no conditions of approval.

LEGAL DESCRIPTION

Vacation of Richco Road right of way

Part of the Northwest ¼ of the Northwest ¼, part of the Northeast ¼ of the Northwest ¼, Section 5, Township 22 North, Range 20 East, City of De Pere, Brown County, Wisconsin described as follows:

Commencing at the North ¼ Corner of said Section 5;
 thence N89°02'55"W, 154.02 feet on the north line of said Section 5;
 thence S38°39'17"W, 75.84 feet to the northeast corner of Lot 1 of Volume 58 of Certified Survey Maps, Page 29;
 thence N89°02'55"W, 688.93 feet along the south right of way of Red Maple Road to the POINT OF BEGINNING;
 thence on the easterly right of way of Richco Road, 10.96 feet on the arc of a 12.00 foot radius curve to the left, having a long chord of S64°47'00.5"W, 10.58 feet;
 thence S38°36'56"W, 827.03 feet on said right of way;
 thence N51°21'16"W, 0.83 feet on said right of way;
 thence S38°39'17"W, 291.16 feet on said right of way;
 thence 100.40 feet along the arc of a 75.00 foot radius curve to the left, having a long chord of N09°12'38.5"W, 93.07 feet to the westerly right of way of Richco Road;
 thence N38°36'56"E, 938.14 feet on said westerly right of way;
 thence N00°56'41"E, 54.96 feet on said westerly right of way to the southerly right of way of Red Maple Road;
 thence S89°02'55"E, 136.75 feet on said southerly right of way to the POINT OF BEGINNING.

Said parcel contains 74,513 square feet or 1.710 acres of land more or less.

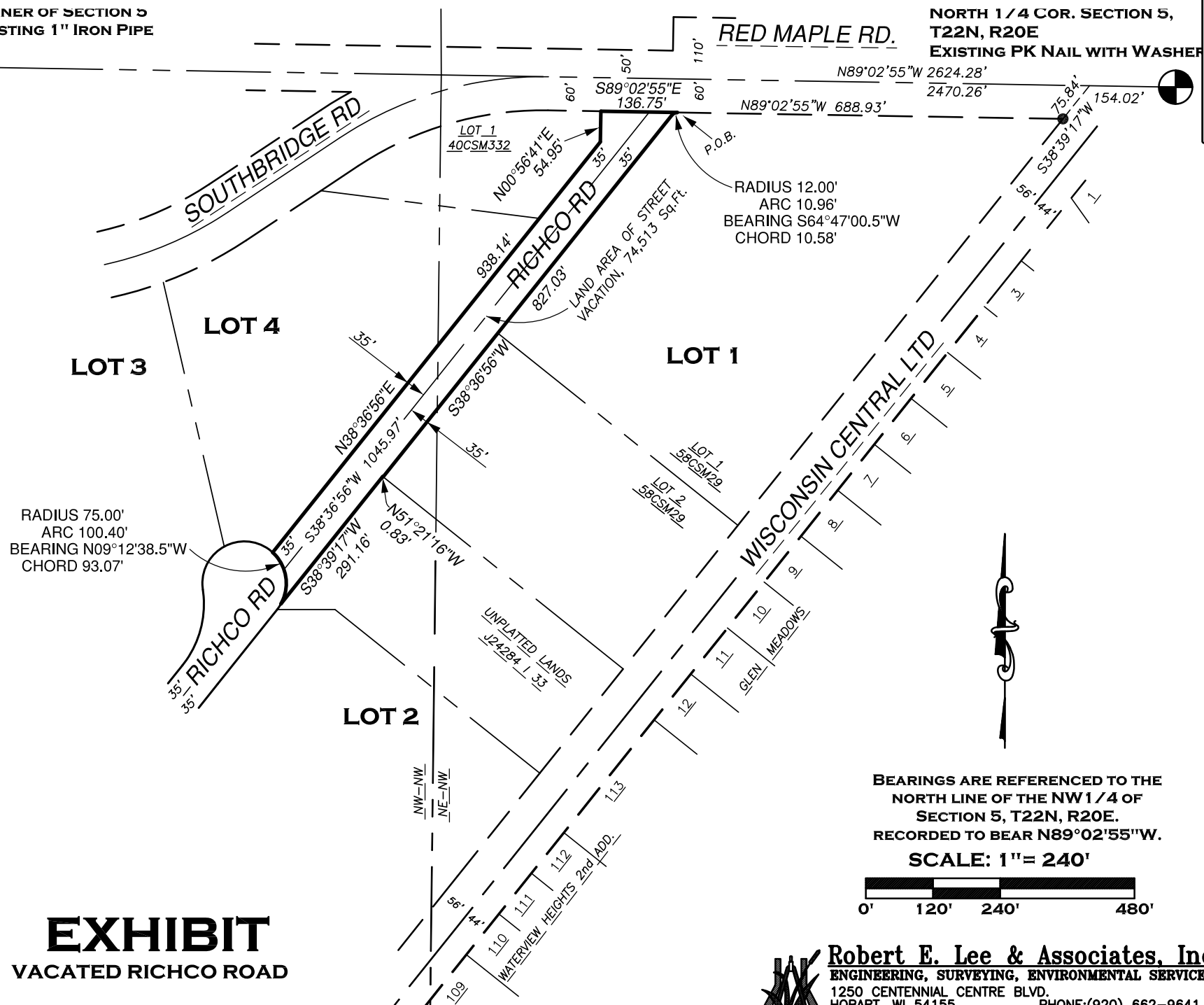
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 thence S89°02'55"E, 136.75 feet on said southerly right of way to the POINT OF BEGINNING.

Said parcel contains 74,513 square feet or 1.710 acres of land more or less.



EXHIBIT

VACATED RICHCO ROAD

FILE: R:\0404415CSM.DWG



Robert E. Lee & Associates, Inc.
ENGINEERING, SURVEYING, ENVIRONMENTAL SERVICES
1250 CENTENNIAL CENTRE BLVD.
HOBART, WI 54155 PHONE:(920) 662-9641
INTERNET: www.releeinc.com FAX:(920) 662-9141

City of De Pere, Wisconsin**Request For Common Council Action**

MEETING DATE: October 4, 2016
DEPARTMENT: City Clerk-Treasurer
FROM: Shana Ledvina
SUBJECT: Resolution #16-106, Disallowance of Claim (Beverly Wojkiewicz).

ATTACHMENTS:

- Reso16-106 (DOCX)
- 201609220839 (PDF)

RESOLUTION #16-106

DISALLOWANCE OF CLAIM
(Beverly Wojkiewicz)

WHEREAS, a Notice of Claim and Claim was filed by Beverly Wojkiewicz ("Claimant"), 2701 Sandy Acre Court, Suamico, Wisconsin 54313-8448, in the City Clerk-Treasurer's office on August 17, 2016, alleging property damage to her vehicle in the amount of \$1,705.78, which occurred on August 3, 2016; and

WHEREAS, such Notice and Claim further alleges that Claimant's 2000 Jeep Grand Cherokee Laredo was splattered with paint from the roadway when she drove close to the centerline while traveling on Lawrence Drive; and

WHEREAS, this matter has been reviewed by the City's liability insurance carrier, EMCASCO Insurance Company (EMC), which investigated the same and determined that the City's Department of Public Works followed Wisconsin Department of Transportation Specifications in the placing of cones near the yellow centerline, in the use of a follow truck, and in the use of the required fast-dry paint. Based on the above, EMC believes there is no evidence the City was negligent or legally responsible for the damages.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

The claim submitted by Beverly Wojkiewicz be, and the same is hereby denied, and that no action on this claim may be brought against the City of De Pere, or any of its officers, officials, agents or employees after six months from the date of service of this notice.

BE IT FURTHER RESOLVED THAT:

A copy of this Resolution be forwarded to the Claimant, Beverly Wojkiewicz as a Notice of Disallowance.

Attachment: Reso16-106 (5155 : Reso #16-106, Disallowance of Claim (Beverly Wojkiewicz))

BE IT FURTHER RESOLVED THAT:

All City officials, officers and employees are authorized and directed to take such steps as are lawful and necessary in furtherance thereof.

Adopted by the Common Council of the City of De Pere, Wisconsin, this 4th day of October, 2016.

APPROVED:

Michael J. Walsh, Mayor

ATTEST:

Shana D. Ledvina, Clerk-Treasurer

Ayes: _____

Nays: _____

Attachment: Reso16-106 (5155 : Reso #16-106, Disallowance of Claim (Beverly Wojkiewicz))

COPY



Milwaukee Claim Department

September 16, 2016

BEVERLY WOJKIEWICZ
2701 SANDY ACRE CT
SUAMICO, WI 54313-8448

RE: Insured: City Of Depere
Claim Number: 1254789
Loss Date: 8/3/16
Claimant: Beverly Wojkiewicz

Dear Beverly Wojkiewicz:

I am in receipt of your claim for the damages to your vehicle from yellow paint.

I spoke to the Department of Public Works (DPW) and they confirmed that cones were near the center yellow line, at the intersections and then placed about every 50 feet. As the crew is painting, they use a follow truck with flashing lights and signs stating "wet paint." Our insured uses a paint that dries fast is applied per the DOT specifications.

Based on my investigation, there is no liability on our insured and I will not be able to offer you any compensation in this matter.

Please feel free to contact me at (262) 717-3968 with any questions.

Sincerely,

Paul Kasdorf
Sr. Claims Adjuster
paul.c.kasdorf@emcins.com

CC: CITY OF DEPERE
335 S BROADWAY
DE PERE WI 54115-2526

Cc: M3 INSURANCE SOLUTIONS INC (via email)

P.O. Box 327 | Brookfield, WI 53008-0327 | 262.717.3900 | 855.495.1800 | F 888.992.6125 | milwaukee.claims@emcins.com | www.emcins.com

Milwaukee Claim Department



August 18, 2016

C0193
CITY OF DEPERE
335 S BROADWAY
DE PERE WI 54115-2526

Dear City Of Depere:

EMC has received notice of your claim. The initial information received is referenced in the Claims Contact Summary below. You may wish to retain the Claims Contact Summary information for your records. It will assist you when contacting EMC regarding the status of your claim.

If we have not spoken about your claim upon receipt of this letter, please use the information below to contact me.

Sincerely,

Paul Kasdorf
Senior Claims Adjuster

YOUR CLAIM INFORMATION

Claim Number:	Z01254789
Claimant:	Beverly Wojkiewicz
Policy Number:	5D3-15-78 General Liability (Occurrence)
Loss Date:	08/03/2016
Adjuster:	Paul Kasdorf
Phone:	262-717-3968
Email:	<u>Paul.C.Kasdorf@EMCIns.com</u>

P.O. Box 327 | Brookfield, WI 53008-0327 | 262.717.3900 | 855.495.1800 | F 888.992.6125 | milwaukee.claims@emcins.com | www.emcins.com

Employers Mutual Casualty Company
EMCASC0 Insurance Company
EMC Reinsurance Company

Illinois EMCASC0 Insurance Company
Dakota Fire Insurance Company
EMC Property & Casualty Company

Union Insurance Company of Providence
Hamilton Mutual Insurance Company
EMC Risk Services, LLC

EMC Underwriters, LLC
EMC National Life Company (affiliate)

CITY OF DE PERE
CLERK-TREASURER'S OFFICE
335 SOUTH BROADWAY STREET
DE PERE, WI 54115
(920) 339-4050

LIABILITY CLAIM INFORMATION FORM

INSTRUCTIONS: Please fill out this form completely, sign, date and return to the address listed above. The City will submit your documentation to its insurance carrier for payment determination.

1. Date and Time of Incident: 8/3/16 or 8/4/16, between 5:45 + 5:00 AM
2. Location of Incident: Just past 1800 Lawrence Blvd, left lane of Street
3. Name of Injured Person/Owner of Damaged Property: Beverly Wojkiewicz
(Age if Minor:)
4. Address: 2701 Sandy Acre Ct. Suamico, WI 54313
5. Telephone Number: (H) (C) (920) 676-5378 (W) (920) 337-8398
6. Please give a detailed description of the incident (use back of form if necessary): was driving down Lawrence Blvd. between 5:45 + 5:00 AM to go to work. There was a street sweeper on the street in the right lane, I moved over to left lane + must have gotten a little close to the center line, which apparently had just been painted, + the paint has splattered onto my vehicle. There were not "Wet Paint" signs posted + no "Cones" posted in the street. I was totally unaware of wet paint.
7. Total Amount of Claimed Damages: \$ 1705.⁷⁸ (Attach itemized statements/bills)
8. Witness name, address and telephone number: Pete Christensen, Menasha, WI (920) 337-3056

In signing this Liability Claim form, I acknowledge that the City of De Pere will be submitting my information to its liability insurance carrier for its review and determination of liability and that my claim will be paid only if the insurance company determines the City is legally liable for my damages/injuries.

08/17/2016
Date

Beverly Wojkiewicz
Signature of Person Filing Claim
(parent or guardian if claimant is under 18)

Signature of Person Filing Claim
(parent or guardian if claimant is under 18)

S & L MOTORS

2298 HWY 32

PULASKI, WI 54162

TOLL FREE: 800-865-2655 PHONE: 920-865-8000 BODY SHOP FAX 920-865-8016

FED. ID 39-1807369

***** PRELIMINARY ESTIMATE *****

08/15/2016 10:09 AM

Owner

Owner: BEVERLY WOJKIEWICZ
Address: 2701 SANDY ACRE CT
City State Zip: Green Bay, WI 54313

Work/Day:
FAX:

Inspection

Inspection Date: 08/15/2016 10:09 AM
Primary Impact: Left Side

Inspection Type:
Secondary Impact:

Appraiser Name: Mark Metcalf
Address:

Appraiser License # :**Work/Day:** (920)865-8000x260**FAX:** (920)865-8016**Work/Day:** (920)865-3512

City State Zip:
Email: mmetcalf@slmotors.com

Repairer**Target Complete Date/Time:****Days To Repair:** 3**Vehicle**

2000 Jeep Grand Cherokee Laredo 4 DR Wagon
 6cyl Gasoline 4.0
 4 Speed Automatic

Lic Expire:
Veh Insp# :
Condition:

Ext. Color: PATRIOT BLUE PRL

Ext. Refinish: Two-Stage
Ext. Paint Code: PBT

VIN: 1J4GW48SXYC337774
Mileage Type: Actual
Code: J7313B

Int. Color: SEATS - CLOTH LOW-BACK
 BUCKET

Int. Refinish: Two-Stage
Int. Trim Code: *H7

Options - AudaVIN Information Received

4-Wheel Drive
 Anti-Lock Brakes
Camper/Towing Package
Compact Disc W/Tape
 Dual Airbags
 Intermittent Wipers
 Overhead Console
 Power Mirrors
QuadraDrive Tmsfer Case
 Roof/Luggage Rack
 Theft Deterrent System

Air Conditioning
 Auto Locking Hubs (4WD)
Cargo/Trunk Net
 Cruise Control
Floor Mats
Keyless Entry System
 Power Brakes
 Power Steering
 Rear Window Defroster
Sunscreen Glass
 Tilt Steering Wheel

Aluminum/Alloy Wheels
 Bodyside Cladding
 Center Console
 Digital Clock
Fog Lights
 Lighted Entry System
 Power Door Locks
 Power Windows
 Rear Window Wiper/Washer
 Tachometer
 Tinted Glass

2000 Jeep Grand Cherokee Laredo 4 DR Wagon
Claim # :

08/15/2016 10:09 AM

Tonneau/Cargo Cover**Trip Computer****Velour/Cloth Seats****AudaVIN options are listed in bold-italic fonts****Damages**

Line	Op	Guide	MC	Description	MFR.Part No.	Price	ADJ%	B%	Hours	R
Stripes And Mouldings										
1	E	79	01	Cladding,Front Fender LT	5FR17VF7AC	\$78.60			0.3	SM
2	E	272	01	Mldg,Rocker Panel LT	5EY65VF7	\$146.00			0.4	SM
3	E	362	01	Cladding,Front Door LT	5FR21VF7AF	\$270.00			0.4	SM
4	E	173	01	Cladding,Quarter Panel LT	5EY79XS9AB	\$29.25			0.2	SM

Front Body Interior Sheetmetal

5	E	111		Shield,Front Splash LT	55136229AD	\$59.70			0.5	SM
---	---	-----	--	------------------------	------------	---------	--	--	-----	----

Rear Bumper

6	E	143	01	Cover,Rear Bumper	5EU81XS9AB	\$587.00			2.4	SM
---	---	-----	----	-------------------	------------	----------	--	--	-----	----

Manual Entries

7	E			WHEEL HOUSE SHIELD REAR	Replace OEM	\$38.00*			0.3*	SM*
8	N			COAT LT REAR WHEEL HOUSE	Additional Labor	\$10.00*			1.0*	SM*
9	N			CLEAN UP TIRE	Additional Labor				1.5*	SM*
9			Items							

MC Message

01 CALL DEALER FOR EXACT PART # / PRICE

Estimate Total & Entries

Gross Parts		\$1,208.55	
Other Parts		\$10.00	
Parts & Material Total			\$1,218.55
Tax on Parts & Material	@ 5.000%		\$60.93

Labor	Rate	Replace Hrs	Repair Hrs	Total Hrs	
Sheet Metal (SM)	\$58.00	4.5	2.5	7.0	\$406.00
Mech/Elec (ME)	\$109.00				
Frame (FR)	\$58.00				
Refinish (RF)	\$58.00				
Labor Total				7.0 Hours	\$406.00
Tax on Labor		@ 5.000%			\$20.30
Gross Total					\$1,705.78
Net Total					\$1,705.78

Alternate Parts Y/00/00/00/00 CUM 00/00/00/00/00 Zip Code: 54162 Default
Rate Name DefaultAudatex Estimating 8.0.035 ES 08/15/2016 10:20 AM REL 8.0.035 DT 07/01/2016 DB 08/08/2016
© 2016 Audatex North America, Inc.

08/15/2016 10:20 AM

Page 2 of 3

2000 Jeep Grand Cherokee Laredo 4 DR Wagon
Claim # :

08/15/2016 10:09 AM

Op Codes

* = User-Entered Value	^ = Labor Matches System Assigned Rates	E = Replace OEM
NG = Replace NAGS	EC = Replace Economy	OE = Replace PXN OE Srpls
UE = Replace OE Surplus	ET = Partial Replace Labor	EP = Replace PXN
EU = Replace Recycled	TE = Partial Replace Price	PM = Replace PXN Reman/Rebld
UM = Replace Reman/Rebuilt	L = Refinish	PC = Replace PXN Reconditioned
UC = Replace Reconditioned	TT = Two-Tone	SB = Sublet Repair
N = Additional Labor	BR = Blend Refinish	I = Repair
IT = Partial Repair	CG = Chipguard	RI = R & I Assembly
P = Check	AA = Appearance Allowance	RP = Related Prior Damage



This report contains proprietary information of Audatex and may not be disclosed to any third party (other than the insured, claimant and others on a need to know basis in order to effectuate the claims process) without Audatex's prior written consent.

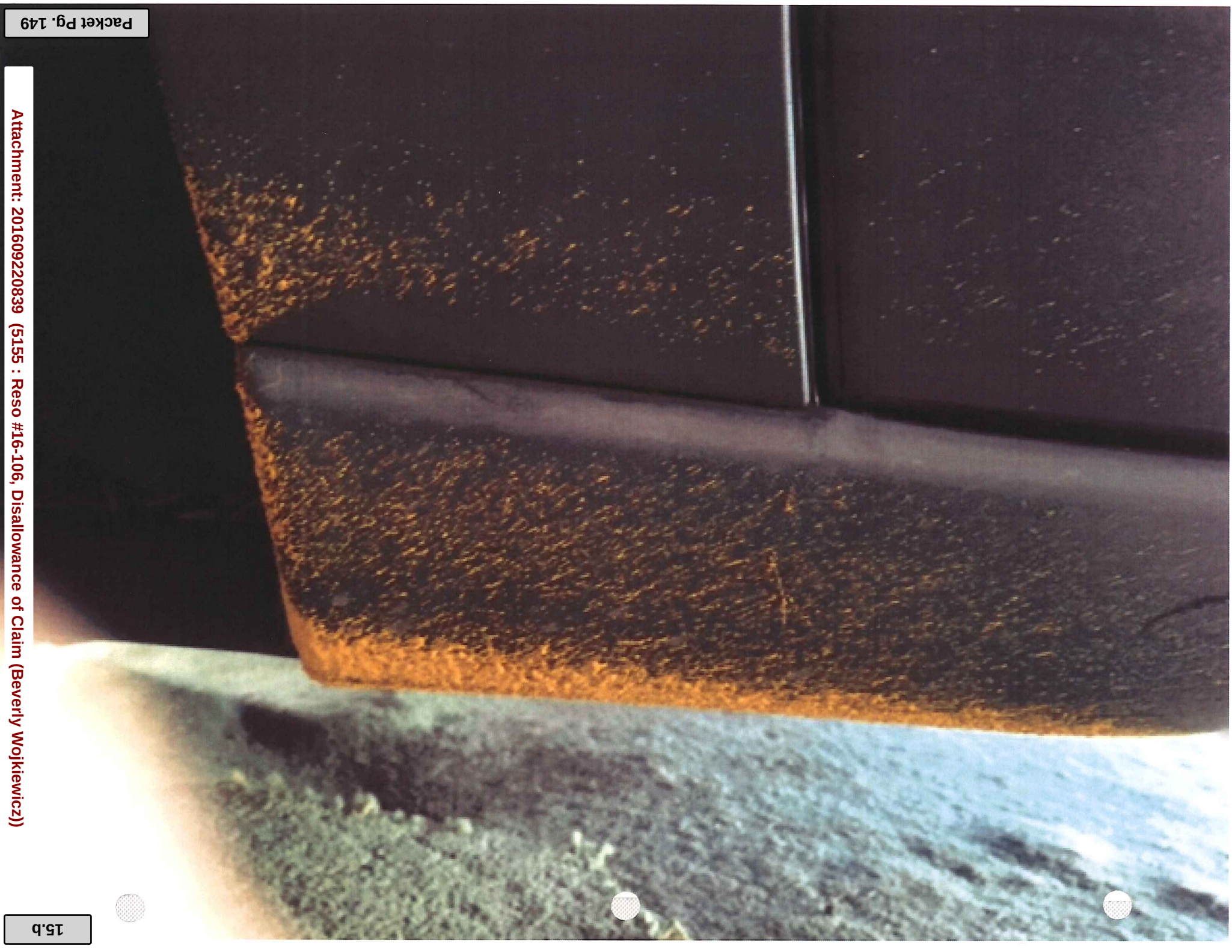
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City of De Pere, Wisconsin

**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: City Attorney

FROM: Judith Schmidt-Lehman

SUBJECT: Resolution #16-107, Authorizing Agreement Regarding the
Sale/Purchase and Right of First Refusal of Certain Property
Between the City of De Pere and Green Bay Packaging, Inc.

ATTACHMENTS:

- Reso16-107 (DOCX)
- GB Packaging Ex. A-revised (PDF)
- Green Bay Packaging - Sale of Property 9-13-16-FINAL (DOCX)
- Memo to Mayor and CC GBP Land Sale and CSM 2x (DOCX)

RESOLUTION #16-107

AUTHORIZING AGREEMENT REGARDING THE SALE/PURCHASE
AND RIGHT OF FIRST REFUSAL OF CERTAIN PROPERTY BETWEEN
THE CITY OF DE PERE AND GREEN BAY PACKAGING INC.

WHEREAS, City owns certain vacant property within its corporate limits known as the Southbridge Business Park, which is adjacent to a parcel owned by Green Bay Packaging Inc.; and

WHEREAS, Green Bay Packaging Inc. desires to enter into an agreement to purchase an approximate 21.83 acre parcel and grant to City a Right of First Refusal to repurchase, which shall terminate upon substantial improvements, for the purpose of future expansion of its manufacturing facility thereon; and

WHEREAS, this matter has been reviewed by the Finance/Personnel Committee which recommends approval thereof.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

The Mayor and Clerk-Treasurer are authorized and directed to enter into such Agreement Regarding the Sale/Purchase and Right of First Refusal of Certain Property as is attached hereto and incorporated by reference as Exhibit 1.

BE IT FURTHER RESOLVED THAT:

All City officials, officers, and employees are further authorized and directed to take such steps as are lawful and necessary in furtherance thereof.

Adopted by the Common Council of the City of De Pere, Wisconsin, this 4th day of October, 2016.

APPROVED:

Michael J. Walsh, Mayor

ATTEST:

Shana D. Ledvina, Clerk-Treasurer

Ayes: _____

Nays: _____

Attachment: Reso16-107 (5165 : Resolution16-107, Authorizing Sale/Purchase and Right of First Refusal of Certain Property GBP)



Certified Survey Map

Part of Lot 2 of Volume 40, Certified Survey Maps, page 167, Map No. 6087, Doc. No. 1740762, Brown County Records being part of lots 104, 105, 106, 118, 119, 120 and 121 of Williams Grant Subdivision (Volume 6, Plats, Page 13, Brown County Records), City of De Pere, Brown County, Wisconsin



North

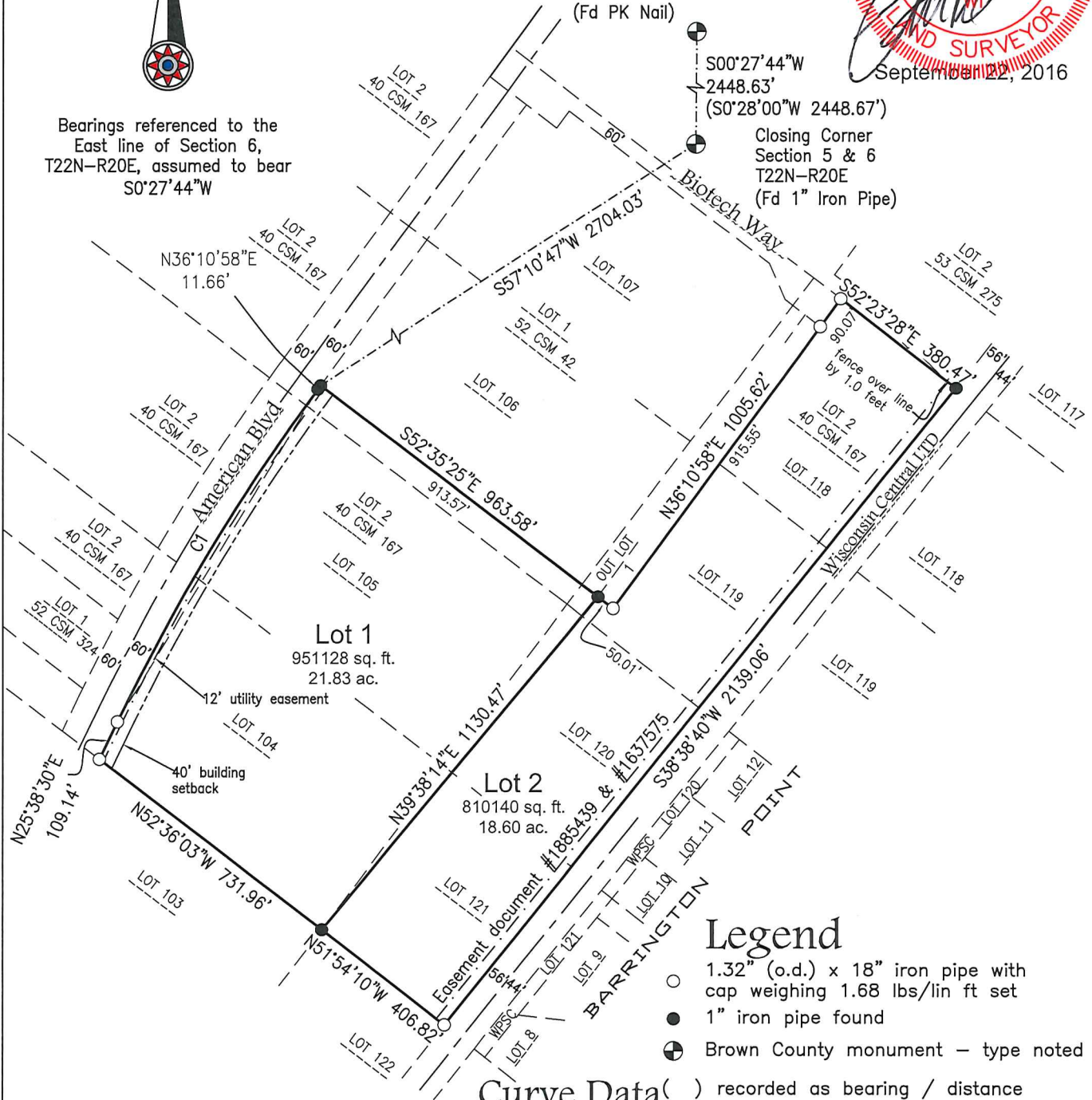


Bearings referenced to the East line of Section 6, T22N-R20E, assumed to bear S0°27'44"W



NE Corner Section 6
T22N-R20E
(Fd PK Nail)

Closing Corner
Section 5 & 6
T22N-R20E
(Fd 1" Iron Pipe)



CURVE	ARC LENGTH	RADIUS	CHORD LENGTH	CHORD BEARING	CENTRAL ANGLE
C1	1019.24'	5540.00'	1017.81'	N30°54'44"E	10°32'28"

Scale: 1" = 400'

Client: City of De Pere
Tax Parcel: WD-L492-B
Drafted By: JRW
File: R-17606 CSM 92216.DWG

Mau & Associates
LAND SURVEYING & PLANNING
CIVIL & WATER RESOURCE ENGINEERING
Phone: 920-434-9670 Fax: 920-434-9672

Sheet One of Three
Project No.: R-17606
Drawing No.: L-9237

Attachment: GB Packaging Ex. A-revised (5165 : Resolution16-107, Authorizing Sale/Purchase and Right of First Refusal of Certain Property GBP)



SURVEYOR’S CERTIFICATE

I, Steven M. Bieda, Professional Land Surveyor, PLS–2275, do hereby certify that I have surveyed, divided and mapped part of Lot 2 of Volume 40, Certified Survey Maps, page 167, Map No. 6087, Doc. No. 1740762, Brown County Records, being part of lots 104, 105, 106, 118, 119, 120 and 121 of Williams Grant Subdivision (Volume 6, Plats, Page 13, Brown County Records. City of De Pere), Brown County, Wisconsin, more fully described as follows:

Commencing at the Closing Corner of Section 5 and 6, T22N–R20E; thence S57°10’47”W, 2704.03 feet to the Southwest corner pf Lot 1 of Volume 52, Certified Survey Map, page 42, Map # 7575, Doc. #2282341, Brown County Records, and the point of beginning; thence S52°35’25”E, 963.58 feet along said South line; thence N36°10’58”E, 1005.62 feet along the East line and its extension of said Certified Survey Map to the East right of way of Biotech Way; thence S52°23’28”E, 380.47 feet to the West right of way of the Wisconsin Central LTD; thence S38°38’40”W, 2139.06 feet along said right of way to the Southeast corner of volume 40, Certified Survey Map, page 167, map #6087, document number 1740762, Brown County Records; thence N51°54’10”W, 406.82 feet along the South line of said Certified Survey Map; thence N52°36’03”W, 731.96 feet along the South line of said Certified Survey Map to the Easterly Right of Way of American Boulevard; thence N25°38’30”E, 109.14 feet along said right of way; thence 1019.24 feet along the said East right of way being the arc of a 5540.00 foot radius curve to the right whose long chord bears N30°54’44”E, 1017.81 feet; thence N36°10’58”E, 11.66 feet along said East right of way to the point of beginning

Parcel contains 1,761,263 square feet / 40.43 acres more or less.
Parcel subject to any easements and restrictions of record.

That such plat is a correct representation of all the exterior boundaries of the land survey and the division thereof. That I have made such a survey, land division and plat by the direction of the owners listed hereon. That I have fully complied with the provisions of Chapter 236, section 236.34 of the Wisconsin Statutes, the City of De Pere, in surveying, dividing and mapping the same.




Steven M. Bieda
PLS–2275
September 22, 2016

TREASURER’S CERTIFICATE

As duly authorized City of De Pere Treasurer and Brown County Treasurer, We hereby certify that the records in our office show no unredeemed taxes and no unpaid or special assessments affecting any of the lands included in this Certified Survey Map as of the dates listed below.

Shana L. Ledvina Date
City of De Pere Treasurer

Paul D. Zeller Date
Brown County Treasurer

RESTRICTIVE COVENANTS

- 1) The land on all side and rear lot lines of all lots shall be graded by the property owner and maintained by the abutting property owners to provide for adequate drainage of surface water.
- 2) Each lot owner shall grade the property to conform to the adopted sidewalk grade elevation and maintain said elevation for future sidewalks.
- 3) No poles, pedestals or buried cable are to be placed so as to disturb any survey stake or obstruct vision along any lot lines or street line, a disturbance of a survey stake by anyone is a violation of section 236.32 of the Wisconsin Statutes.

CERTIFICATE OF THE CITY OF DE PERE

Approved for the City of DePere this ____ day of _____, 20__.

Shana L. Ledvina
City of De Pere Clerk



Sheet Two of Three
Project No.: R-17606
Drawing No.: L-9237

Attachment: GB Packaging Ex. A-revised (5165 : Resolution16-107, Authorizing Sale/Purchase and Right of First Refusal of Certain Property GBP)



UTILITY EASEMENT PROVISIONS

An easement for electric, natural gas, and communications service is hereby granted by

__List owner(s) of Property , Grantor, to

WISCONSIN PUBLIC SERVICE CORPORATION, a Wisconsin corporation, Grantee,

__ List other utility companies to be named on joint easement – if none delete line(s) __Grantee, and

__ List other utility companies to be named on joint easement – if none delete line(s) __, Grantee

their respective successors and assigns, to construct, install, operate, repair, maintain and replace from time to time, facilities used in connection with overhead and underground transmission and distribution of electricity and electric energy, natural gas, telephone and cable TV facilities for such purposes as the same is now or may hereafter be used, all in, over, under, across, along and upon the property shown within those areas on the plat designated as "Utility Easement" and the property designated on the plat for streets and alleys, whether public or private, together with the right to install service connections upon, across, within and beneath the surface of each lot to serve improvements, thereon, or on adjacent lots; also the right to trim or cut down trees, brush and roots as may be reasonably required incident to the rights herein given, and the right to enter upon the subdivided property for all such purposes. The Grantees agree to restore or cause to have restored, the property, as nearly as is reasonably possible, to the condition existing prior to such entry by the Grantees or their agents. This restoration, however, does not apply to the initial installation of said underground and/or above ground electric facilities, natural gas facilities, or telephone and cable TV facilities or to any trees, brush or roots which may be removed at any time pursuant to the rights herein granted. Structures shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "Utility Easement" without the prior written consent of Grantees. After installation of any such facilities, the grade of the subdivided property shall not be altered by more than six inches without written consent of grantees. This Utility Easement Provision does not prevent or prohibit others from utilizing or crossing the Utility Easement as the Utility easement(s) are non-exclusive.

The grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

Steven M. Bieda
PLS-2275
September 22, 2016



Office of the Register of Deeds
Brown County, Wisconsin

Received for Record _____, 20____,
at _____ o'clock ____ M and recorded as
Document # _____ in
Volume _____ of _____ on Page _____.

Cathy Williquette Lindsay, Register of Deeds

Sheet Three of Three
Project No.: R-17606
Drawing No.: L-9237

**AGREEMENT REGARDING THE SALE/PURCHASE AND RIGHT OF FIRST
REFUSAL OF CERTAIN PROPERTY BETWEEN THE CITY OF DE PERE
AND GREEN BAY PACKAGING INC.**

THIS AGREEMENT, made and entered into this ____ day of September, 2016, by and between the City of De Pere, Wisconsin, a municipal corporation (“City”), and Green Bay Packaging Inc., a Wisconsin corporation (“Developer”).

RECITATIONS

WHEREAS, Developer owns a 20 acre parcel located in the City’s Southbridge Business Park at 2275 American Boulevard which is used for manufacturing purposes (the “Current Site”); and

WHEREAS, City owns certain vacant property adjacent to the Current Site which the City is interested in selling for Business Park purposes; and

WHEREAS, Developer is interested in purchasing a portion of such City property and desires to enter into an agreement to purchase the same for purposes of future expansion of its manufacturing facility; and

WHEREAS, City desires to promote this development;

NOW, THEREFORE, in consideration of the foregoing and mutual covenants and promises contained herein and other good and valuable consideration, the receipt of which is acknowledged, the undersigned hereby agree as follows:

I. PURCHASE OF REAL ESTATE. Developer agrees to purchase, and City agrees to sell, the approximate 21.83 acre parcel of real estate located to the southwest of the Current Site (the “SW Parcel”) as shown on the map attached and incorporated as Exhibit A and identified thereon.

A. Purchase Price. The purchase price for the SW Parcel shall be Thirty Thousand Dollars (\$30,000) per acre, for a total purchase price of Six Hundred Fifty-Four Thousand Nine Hundred Dollars (\$654,900.00). The parties acknowledge that the purchase price for similarly situated Business Park property to the SW Parcel is customarily \$35,000/acre and that the \$30,000 per acre selling price contained herein represents a Tax Increment Financing incentive to Developer of \$109,150.00 toward its purchase of the SW Parcel.

B. Municipal Improvements and Utilities. The purchase price for the SW Parcel is intended to and does cover and include the cost of making available to the SW Parcel municipal improvements and private utilities as identified below. All such improvements and utilities are available from and located in and along the entire length of the City right-of-way and applicable utilities easements along American Boulevard. The purchase price however is not intended to and does not cover extension of municipal improvements from their location in City right-of-way onto the SW Parcel.

1. **Municipal Improvements**

(a) Municipal improvements consist of concrete pavement, curb, gutter, municipal water, municipal sewer, and storm sewer.

(b) City shall provide a regional treatment facility into which Developer's storm water may discharge to meet Developer's MS4 permit storm water management requirements, at no additional cost to Developer. Developer shall be responsible to provide temporary on-site storm water storage resulting from a 5 year event.

2. **Private Improvements**

Private improvements consist of 6000 amp electrical service and natural gas. No telecommunication services are provided.

C. Earnest Money. City acknowledges the receipt of earnest money from Developer in the amount of \$300.00. Such earnest money shall be credited against the purchase price upon closing on the property. Should the Developer fail to close on the purchase of the property, the \$300.00 earnest money shall be forfeited to the City as its sole remedy.

D. Current Use of SW Parcel. Developer acknowledges that at the time this Agreement is entered into, the City has been actively involved in ensuring the SW Parcel remained worked by leasing the SW Parcel to a local farmer for crop production purposes. Developer acknowledges that the SW Parcel is therefore subject to a Lease for purposes of crop production and that City has provided Developer with a copy of that Lease (entitled Farm Lease and dated September 26, 2014).

City has provided its Lessee with notice that the SW Parcel is being transferred to Developer and therefore is, as of the date of closing, no longer subject to the City's Lease. However, Developer agrees to allow the 2016 crops planted by the Lessee/farmer to remain on the SW Parcel after Developer's purchase of the same and further agrees to allow the Lessee/farmer to harvest those crops. City shall assist in obtaining its Lessee's consent to assignment of the Farm Lease as it pertains to the SW Parcel, to Developer.

II. CLOSING PROCEDURE. Closing shall take place on or before _____, 2016, at De Pere City Hall unless the parties otherwise agree in writing. The following shall constitute

contingencies and conditions precedent to Developer's obligation to close on its purchase of the SW Parcel, each of which must be satisfied or waived in writing by Developer prior to closing:

A. Certified Survey Map. City shall, at its own expense, have a Certified Survey Map of the SW Parcel prepared by a certified surveyor. The Certified Survey Map shall be provided to Developer for its approval prior to recording the same with the Brown County Register of Deeds, which approval shall not be unreasonably withheld.

B. Evidence of Title/Title Defects. City shall at its own expense, provide title insurance for the property to be conveyed and shall forward a copy of the commitment of such title insurance to Developer at least seven (7) days prior to closing. The commitment shall be for an owner's policy of title insurance in the amount of the purchase price, naming Developer as the intended insured, written by a responsible title insurance company licensed in the State of Wisconsin with an extended coverage and gap endorsement showing title to the property to be marketable. City shall, at its cost and expense, cause the deletion of all standard title insurance exceptions to such title insurance policy, with the exception of those exceptions which would be removed by an ALTA/ACSM Minimum Survey. If Developer gives City notice of any title defects prior to the closing which are not acceptable or if the commitment does not contain the extended coverage endorsement, City shall use its best effort to cure such defects. If any such defects are not cured by the date of closing, Developer may terminate this Agreement or reschedule the closing at its option.

C. Closing Costs. City shall pay all closing costs usually and customarily paid by sellers, including the cost of the title insurance as provided herein.

D. Conveyance of Title. City shall convey good title to Developer by good and sufficient warranty deed as of the date of closing, free and clear of liens and encumbrances except the following:

1. Municipal and zoning ordinances providing the same do not restrict or interfere with the intended use of the property.
2. Easements of record provided the same do not restrict or interfere with the intended use of the property.
3. Obligations contained in this Agreement.

E. Access Prior to Closing. City shall permit Developer access to the SW Parcel prior to closing at no cost to Developer for the purpose of site examination and testing as deemed reasonable by Developer. Developer agrees to hold City harmless for any and all injury that may occur to Developer, its agents or employees, City's agents, employees or third parties, or any properties or interest of any of the above referenced persons occasioned as a result of Developer's site examination and testing activities as contemplated by this section. The hold harmless provision of this paragraph is intended to include all costs of defense, including reasonable attorney fees.

III. RIGHT OF FIRST REFUSAL

A. City shall be granted a Right of First Refusal to repurchase the SW Parcel from Developer upon the closing of the transfer of the SW Parcel to the Developer. Such Right of First Refusal shall be on the terms and conditions set forth below and shall terminate upon the substantial improvements of the SW Parcel as required under Section IV, paragraph D or City repurchase of the SW Parcel under Section IV, paragraphs E and F.

B. Third Party Offer. At any time during the Right of First Refusal, Developer shall, upon receipt of any bona fide written offer to purchase the SW Parcel by a third party (the “Third Party Offer”), give City notice of such Third Party Offer by providing City with a copy thereof. Upon receipt of such Third Party Offer, City may exercise its right to repurchase the SW Parcel from Developer by informing Developer of the same, in writing within ten (10) business days of the receipt of the Third Party Offer. Developer shall convey the SW Parcel to City free and clear of all encumbrances. The repurchase price to be paid by City shall be the price paid by Developer under this Agreement, less real property taxes due and liens or judgments of record. Developer shall provide a title commitment in the name of the City, meeting the standards of Section II, paragraph B, and shall also pay all closing costs customarily paid by seller, such as prorated taxes and property transfer fees.

The closing on the City’s repurchase of the SW Parcel shall take place within sixty (60) days of City’s exercise of its Right of First Refusal, unless the parties mutually agree otherwise in writing. City’s failure to exercise its Right of First Refusal within such ten (10) business day period shall result in such Right of First Refusal lapsing and all rights of City in the SW Parcel becoming null and void.

IV. POST-CLOSING CONTINGENCIES.

A. Developer to Work the Land. Developer agrees that during the City’s Right of First Refusal period, it shall take steps that are reasonable and necessary to work the land of the SW Parcel so as to preserve its developable acreage and avoid the creation of wet spots or wetland indicators on the property.

B. Development. Developer has indicated a preference to expand its current facility at 2275 American Boulevard onto the SW Parcel; however the parties acknowledge that, as of the date of this Agreement, Developer has no definite plans for expansion or other development on the SW Parcel. The parties however believe it important to take steps currently that will allow Developer to expand onto the SW Parcel in the future should Developer deem it desirable to do so, and therefore wish to enter into this Agreement to create that opportunity. Based upon the foregoing, the parties agree to development timelines as set forth below.

C. Developer to Submit Site Plan.

1. Developer agrees that, except as provided below, on or before the 10th anniversary of the date of this Agreement it shall submit a site plan meeting the requirements of the City zoning code, pertaining to development upon the SW Parcel, including all fencing, landscaping, lighting, signage, off-street parking, off-street loading, building design, facade materials, improvement layout (site drainage, utilities and erosion control), accessory building or structures, and any other information related to the construction and appearance of the site and construction thereon and any accessory buildings or structures thereon which may be reasonably required by City. Review and approval of such plan shall be based on the City's Planning and Development Standards for the Business Park in effect at the time the site plan is submitted and may be subject to additional reasonable conditions imposed at the reasonable discretion of the City. If the provisions of this paragraph are not complied with, the City may proceed as provided in Section IV, paragraph E, below.

2. Should Developer determine it is unable to comply with the timeline found in Section IV, paragraph C.1. for submitting a site plan, Developer shall provide written notice thereof at least six (6) months prior to the ten (10) year anniversary of this Agreement. Such notice shall include a detailed description of the reason(s) why such timeline cannot be met by Developer and any assurance Developer can provide regarding a revised timeline for submission of the site plan required by Section IV, paragraph C.1. The parties agree that they will negotiate in good faith to achieve an alternate site plan submittal deadline.

D. Developer to Substantially Improve. Upon approval of a site plan by the Plan Commission, Developer shall substantially develop the building and improvements on the property in accordance with the plan submitted to the City within twelve (12) months of the Plan Commission approval. "Substantial development" as used in this Agreement shall be the actual and substantial construction of permanent structures in compliance with all plans required by this Agreement. In addition, Developer must give meaningful and satisfactory assurance to City that the completion of the construction in compliance with the approved plan shall be accomplished within a reasonable time, taking into consideration the normal industry standards for the type and complexity of construction involved. Determination of substantial development is to be at the reasonable discretion of City.

E. Failure to Submit Site Plan or Substantially Develop. If, in the reasonable discretion of City, Developer has not complied with the provisions of Section IV, paragraphs C or D, City may, by certified mail, inform Developer of such failure. If after sixty (60) days of mailing of such notice, Developer has still not complied with

those provisions of this Agreement, City may repurchase the property for the price Developer actually paid for the property, less any real property taxes due or liens or judgments of record. If Developer is delayed from achieving substantial development as required in this Agreement and as referred to in this paragraph due to circumstances beyond the reasonable control of Developer, including, but not limited to, strikes, Acts of God, or force majeure, the rescission and repurchase provision of this paragraph shall be postponed by the period of such delay. This provision is intended to be in addition to all other remedies available to the City at law.

F. Repurchase Closing. Closing for repurchase as contemplated in Section IV, paragraph E, shall occur not less than sixty (60) days from the date of termination of the notice referred to in Section IV, paragraph E, unless another time is specifically agreed upon by the parties in writing. At such closing, Developer shall, at its own expense, extend the title insurance previously supplied by the City, naming the City as owner and shall remove any and all encumbrances not present on the title at the time of the original closing. Title shall be conveyed by warranty deed to the City and Developer shall pay all closing costs and filing fees.

V. ENVIRONMENTAL WARRANTIES AND INDEMNITIES.

A. Environmental Condition of Property. The engineering firm of Robert E. Lee & Associates, Inc. has prepared for City a Phase I Environmental Site Assessment of the SW Parcel (dated September 28, 2006), a Limited Phase II Site Assessment (dated October 16, 2006) and a Recognized Environmental Conditions Cleanup Report (REC Report) (dated January 17, 2007) of part of the SW Parcel; and City has provided copies of same to Developer.

The City hereby agrees to protect, indemnify, defend, and hold harmless Developer and its officers, directors, shareholders, employees, agents, successors, and assigns from and against any and all debts, liens, claims, causes of action, administrative orders, fines, penalties, costs (including, without limitation, investigation, removal, response, abatement, remediation, and monitoring costs), losses, injuries, damages, governmental compliance, enforcement or regulatory actions and expenses, (including, without limitation, reasonable attorney's fees, consulting, and engineering fees and court costs), in each case, directly or indirectly arising out of or attributable to: any environmental remediation required by any local, state, or Federal government or agency with respect to adverse environmental matters identified in the Environmental Reports.

The foregoing agreement to indemnify, defend, and hold harmless expressly includes, but is not limited to, any losses, liabilities, damages, injuries, costs, expenses, and claims suffered or incurred by Developer upon or subsequent to Developer becoming owner of the Parcels due to the consummation of the transactions contemplated by this Agreement. The City's duty to defend is independent of its duty to indemnify, and the City's indemnity obligations under this Agreement shall survive the closing of the sale of the Parcels to Developer. For the SW Parcel, except as mentioned, discussed or disclosed in the aforementioned Phase I, Limited Phase II and REC Report, the City warrants and represents as follows:

1. **Past Use of Property.** To the best of its knowledge, no portion of the SW Parcel has been used:

(a) In a manner requiring the issuance of a permit covering the discharge or disposal of pollutant or waste into any waters of the United States pursuant to Wisconsin Statutes, or 33 U.S.C. 1241, et. seq.

(b) For treatment, collection, storage, or disposal of any refuse, objectionable waste, or material in a manner inconsistent with regulations issued by the Wisconsin Department of Natural Resources pursuant to Wisconsin Statutes, or requiring a permit thereunder.

(c) For the generation, transport, treatment, storage, or disposal of any hazardous waste subject to regulation under Wisconsin Statutes, or 42 U.S.C. 6901, et. seq.

(d) For the manufacture, processing, distribution in commerce, use, or disposal of any toxic substance, including, particularly, PCB's and asbestos, subject to regulations under 15 U.S.C. 2601, et. seq.

(e) For any underground storage tanks subject to regulation under Wis. Admin. Code Chapter ILHR 10.

(f) For any injection well, dry well, or similar facility subject to regulation pursuant to Wisconsin Statutes, or 42 U.S.C. 300H, et. seq.

2. **Release of Hazardous Substances.** To the best of its knowledge, the City is of the belief that there is no current, nor has there been any past release or substantial threat of release of a hazardous substance, pollutant, or contaminant from or onto the property subject to regulations pursuant to Wisconsin Statutes, or 42 U.S.C. 9601, et. seq., or subject to any action that may make the buyer liable in tort under common law, public, or private nuisance action.

3. **Threatened or Pending Environmental Litigation.** No portion of the SW Parcel is the subject of threatened or pending investigation or lawsuit or administrative action by any person, forum, governmental body or any entity relating to or arising from any manner of circumstances subject to regulation pursuant to any statute, ordinances, or regulations.

4. **Compliance with federal, state, or local environmental laws.** The current use of the SW Parcel is fully in compliance with all federal, state, county, and municipal laws and regulations.

5. **Flood plain/wetlands.** A portion of the SW Parcel is located within a wetland delineation map as shown on the Surface Water Data Viewer Map, attached and incorporated as Exhibit B. The City has not and under this Agreement is not obligated to have undertaken a wetland delineation study of the remainder of the SW Parcel.

B. Provisions to Survive Closing. The representation provisions of this section shall survive the closing of the transactions contemplated by this Agreement.

VI. PAYMENT IN LIEU OF TAX

A. Obligation. Except in cases of the exercise of eminent domain, Developer obligates itself and its successors and assigns to make a payment in lieu of tax to City should the SW Parcel or any improvements located thereon, become exempt from property tax for any reason. Such payment in lieu of tax shall be determined and paid as provided herein.

B. Calculation and Payment During Existence the Time the SW Parcel is Located Within an Open Tax Incremental District.

1. The value of the property shall be as determined by the City Assessor in accordance with Chapter 70, Wis. Stats. The City Assessor shall notify the property owner of the property valuation and any changes thereto in accordance with and set forth in Chapter 70 Wis. Stats.

2. On or before December 1st of each year, City shall invoice the property owner for the amount of its payment in lieu of tax, calculated as follows:

Subject property valuation X tax rate / \$1000 assessed value

For example, assuming 2016 property tax rate of \$23.00/\$1,000, if the subject property is valued at \$100,000, the payment in lieu of tax would be \$2,300.00 (\$100,000 x .023).

3. Failure of property owner to make its payment in lieu of tax to the City Clerk-Treasurer on or before October 15th of the year so calculated shall result in the amount due being placed upon the property as a special charge.

C. Calculation and Payment During Time the SW Parcel is Not Located Within an Open Tax Incremental District.

1. The value of the property shall be as determined by the City Assessor in accordance with Chapter 70, Wis. Stats. The City Assessor shall notify the property owner of the property valuation and any changes thereto in accordance with and set forth in Chapter 70 Wis. Stats.

2. On or before December 1st of each year City shall invoice the property owner for the amount of its payment in lieu of tax, calculated as follows:

Subject property valuation X City tax rate / \$1000 assessed value

For example, assuming 2016 City property tax rate of \$4.00/\$1,000, if the subject property is valued at \$100,000 the payment in lieu of tax would be \$400.00 (\$100,000 x .004).

3. Failure of property owner to make its payment in lieu of tax to the City Clerk-Treasurer on or before October 15th of the year so calculated shall result in the amount due being placed upon the property as a special charge.

D. Obligation to Run with the Land. The obligations under this Section shall run with the land and shall be binding upon and obligate the owner of the SW Parcel at the time the payment in lieu of tax obligation arises or remains unpaid.

VII. DEFAULT PROVISIONS.

A. Breach and Cure. Any provision of this Agreement which does not contain a specific remedy shall be resolved as provided hereunder. If either party believes that such provision has been breached, it shall supply the other party with written notice, informing the other party that it has fifteen (15) days to cure such breach. If there is no cure of that breach, the party may bring any action available for any remedy provided in law or equity.

B. Specific Performance Where Remedy Provided. Where a remedy is specifically provided in this Agreement, in the event that either party fails to perform in compliance with such remedy provision or unreasonably delays in performing thereunder and such delay or failure causes damage to the other party, nothing in this Agreement shall prevent the other party from maintaining an action in specific performance to compel the remedy, demanding damages for any injury caused by the failure of the other party to act in compliance with such remedy provision within a reasonable time or any other remedy or collection of any other costs available in law or equity.

VIII. MISCELLANEOUS.

A. Obligations to run with the land. The obligations contained herein shall run with the land and are binding on all subsequent owners of the SW Parcel as applicable. This Agreement and any amendment thereto shall be recorded with the office of the Brown County Register of Deeds.

B. Assignment. Developer may assign this agreement in its entirety only upon written notice of Assignment to City, including acknowledgement by the assignee of the obligations contained in this agreement and consent to the same.

C. Contractual Interpretation. The paragraphs headed by Roman Numerals in this agreement are referred to as Sections and are intended to include, as categories thereunder, lettered paragraphs. The lettered paragraphs of this Agreement are to be referred to as paragraphs and the numbered paragraphs, subparagraphs. The Section, paragraph, and subparagraph headings of this Agreement are for convenience of reference only and shall not limit or otherwise affect or be used in the construction of any terms of the provisions of this Agreement.

D. Notices. Unless otherwise specifically addressed in this Agreement, all notices required by this Agreement must be in writing. All notices of breach or termination as required in this Agreement shall be mailed by certified mail to the addresses below and shall be deemed received on the date of mailing. All other notices required under this Agreement may be sent by regular mail. All notices and communications shall be addressed to the parties hereto at their respective addresses set forth and shall be deemed received on the date of postmark.

1. If to Developer:

Adam Winters

Sale and Right of First Refusal Agreement
Green Bay Packaging Inc.
Page 15 of 17

Attachment: Green Bay Packaging - Sale of Property 9-13-16-FINAL (5165 : Resolution16-107, Authorizing Sale/Purchase and Right of First

Senior V.P & General Counsel
Green Bay Packaging Inc.
P.O. Box 19017
Green Bay, WI 54304-9017

2. If to City:

City of De Pere
City Clerk-Treasurer
335 South Broadway
De Pere, WI 54115

With a copy to:

City of De Pere
City Administrator
335 South Broadway
De Pere, WI 54115

E. Law Governing. This agreement shall be construed in accordance with the laws of the State of Wisconsin.

F. Entire Agreement. This agreement contains all agreements, terms, covenants, conditions, warranties, and representations made or entered into by and between the parties and supersedes all prior discussions and agreements, whether written or oral, between the parties and constitutes the sole and entire agreement between the parties with respect thereto. This agreement may not be modified or amended unless such modification or amendment is set forth in writing and executed by all parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed
as of the date and year first written above.

GREEN BAY PACKAGING INC.
By:

CITY OF DE PERE
By:

Print Name: _____
Title: _____

Michael J. Walsh, Mayor

Print Name: _____
Title: _____

Shana D. Ledvina, Clerk-Treasurer

State of Wisconsin)
 : SS
Brown County)

State of Wisconsin)
 : SS
Brown County)

This instrument was acknowledged before me
on the _____ day of _____, 2016,
by _____ and
_____ of Green Bay
Packaging Inc.

This instrument was acknowledged before me
on the _____ day of _____, 2016,
by Michael J. Walsh, Mayor and Shana D.
Ledvina, Clerk-Treasurer of the City of De
Pere.

Notary Public, State of Wisconsin
My commission expires on _____.

Notary Public, State of Wisconsin
My commission expires on _____.

Drafted by: Judith Schmidt-Lehman

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CITY OF DE PERE

MEMO

To: Michael J. Walsh, Mayor
Members of the Common Council
From: Kimberly T. Flom, Director of Economic Development and Planning
Judith Schmidt-Lehman, City Attorney
RE: Sale of Part of Parcel WD-L492-B
Date: October 4, 2016

At the May 12, 2015 Finance/Personnel Committee, the Committee authorized staff to negotiate the sale of approximately 22 acres of business park property to Green Bay Packaging (GBP). The property is located immediately south of GBP's current facility at 2275 American Blvd. During the course of discussions with GBP, they decided to request the ability to purchase an additional 11 +/- acres adjacent to their facility in order to facilitate building expansion to the east of their facility in addition to the south. This concept was approved by the Finance/Personnel Committee at its June 14, 2016 meeting.

Since that time, Green Bay Packaging has decided to not purchase the adjacent 11 +/- acre and return to the original concept of purchasing only the approximate 22 acres to the south of their current facility.

In order to accommodate this sale, a CSM of parcel WD-L492-B for the 22 acre parcel is required. The original CSM for this parcel was approved by the Plan Commission on May 26, 2015. Due to the continued negotiations with Green Bay Packaging, that CSM was not forwarded to the Council. The CSM that accompanies this Sale/Purchase item has been slightly modified from the May, 2015 CSM only by moving the southerly boundary line slightly so that the total acreage for this lot is 21.83 acres in size.

Staff recommends approval of the Sale/Purchase Agreement and the Certified Survey Map.

If you have any question or concerns, please contact Kim or Judy at your convenience.



City of De Pere, Wisconsin

Request For Common Council Action

MEETING DATE: October 4, 2016

DEPARTMENT: Plan Commission

FROM: Kimberly Flom

SUBJECT: A. Plan Commission recommendation for or a two lot CSM on the south end of American Boulevard parcel WD-L492-B. Surveyor: Mau & Associates.

ATTACHMENTS:

- L-9237 (2) (PDF)
- PC_Staff_May26_CSM_WD-L492-B (PDF)



Certified Survey Map

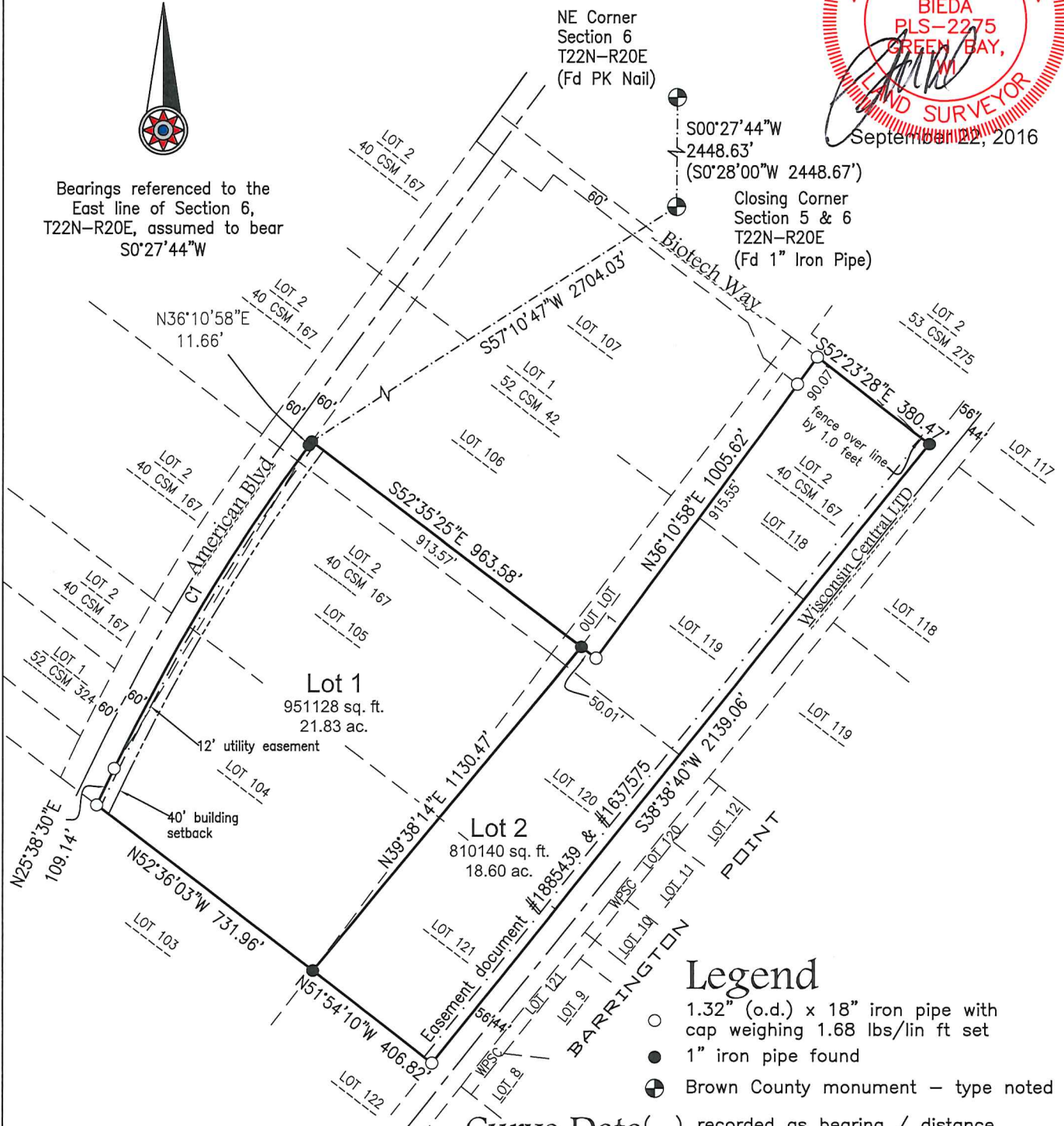
Part of Lot 2 of Volume 40, Certified Survey Maps, page 167, Map No. 6087, Doc. No. 1740762, Brown County Records being part of lots 104, 105, 106, 118, 119, 120 and 121 of Williams Grant Subdivision (Volume 6, Plats, Page 13, Brown County Records), City of De Pere, Brown County, Wisconsin



North



Bearings referenced to the East line of Section 6, T22N-R20E, assumed to bear S0°27'44"W



Legend

- 1.32" (o.d.) x 18" iron pipe with cap weighing 1.68 lbs/lin ft set
- 1" iron pipe found
- ⊙ Brown County monument — type noted

Curve Data () recorded as bearing / distance

CURVE	ARC LENGTH	RADIUS	CHORD LENGTH	CHORD BEARING	CENTRAL ANGLE
C1	1019.24'	5540.00'	1017.81'	N30°54'44"E	10°32'28"

Scale: 1" = 400'

Client: City of De Pere

Tax Parcel: WD-L492-B

Drafted By: JRW

File: R-17606 CSM 92216.DWG

Mau & Associates

LAND SURVEYING & PLANNING
CIVIL & WATER RESOURCE ENGINEERING
Phone: 920-434-9670 Fax: 920-434-9672

Sheet One of Three

Project No.: R-17606

Drawing No.: L-9237

Attachment: L-9237 (2) (5164 : City CSM L492-B Green Bay Packaging)



SURVEYOR’S CERTIFICATE

I, Steven M. Bieda, Professional Land Surveyor, PLS–2275, do hereby certify that I have surveyed, divided and mapped part of Lot 2 of Volume 40, Certified Survey Maps, page 167, Map No. 6087, Doc. No. 1740762, Brown County Records, being part of lots 104, 105, 106, 118, 119, 120 and 121 of Williams Grant Subdivision (Volume 6, Plats, Page 13, Brown County Records. City of De Pere), Brown County, Wisconsin, more fully described as follows:

Commencing at the Closing Corner of Section 5 and 6, T22N–R20E; thence S57°10’47”W, 2704.03 feet to the Southwest corner pf Lot 1 of Volume 52, Certified Survey Map, page 42, Map # 7575, Doc. #2282341, Brown County Records, and the point of beginning; thence S52°35’25”E, 963.58 feet along said South line; thence N36°10’58”E, 1005.62 feet along the East line and its extension of said Certified Survey Map to the East right of way of Biotech Way; thence S52°23’28”E, 380.47 feet to the West right of way of the Wisconsin Central LTD; thence S38°38’40”W, 2139.06 feet along said right of way to the Southeast corner of volume 40, Certified Survey Map, page 167, map #6087, document number 1740762, Brown County Records; thence N51°54’10”W, 406.82 feet along the South line of said Certified Survey Map; thence N52°36’03”W, 731.96 feet along the South line of said Certified Survey Map to the Easterly Right of Way of American Boulevard; thence N25°38’30”E, 109.14 feet along said right of way; thence 1019.24 feet along the said East right of way being the arc of a 5540.00 foot radius curve to the right whose long chord bears N30°54’44”E, 1017.81 feet; thence N36°10’58”E, 11.66 feet along said East right of way to the point of beginning

Parcel contains 1,761,263 square feet / 40.43 acres more or less.
Parcel subject to any easements and restrictions of record.

That such plat is a correct representation of all the exterior boundaries of the land survey and the division thereof. That I have made such a survey, land division and plat by the direction of the owners listed hereon. That I have fully complied with the provisions of Chapter 236, section 236.34 of the Wisconsin Statutes, the City of De Pere, in surveying, dividing and mapping the same.


Steven M. Bieda
PLS–2275
September 22, 2016



TREASURER’S CERTIFICATE

As duly authorized City of De Pere Treasurer and Brown County Treasurer, We hereby certify that the records in our office show no unredeemed taxes and no unpaid or special assessments affecting any of the lands included in this Certified Survey Map as of the dates listed below.

Shana L. Ledvina	Date	Paul D. Zeller	Date
City of De Pere Treasurer		Brown County Treasurer	

RESTRICTIVE COVENANTS

- 1) The land on all side and rear lot lines of all lots shall be graded by the property owner and maintained by the abutting property owners to provide for adequate drainage of surface water.
- 2) Each lot owner shall grade the property to conform to the adopted sidewalk grade elevation and maintain said elevation for future sidewalks.
- 3) No poles, pedestals or buried cable are to be placed so as to disturb any survey stake or obstruct vision along any lot lines or street line, a disturbance of a survey stake by anyone is a violation of section 236.32 of the Wisconsin Statutes.

CERTIFICATE OF THE CITY OF DE PERE

Approved for the City of DePere this ____ day of _____, 20__.

Shana L. Ledvina
City of De Pere Clerk

Sheet Two of Three
Project No.: R-17606
Drawing No.: L-9237



UTILITY EASEMENT PROVISIONS

An easement for electric, natural gas, and communications service is hereby granted by

__List owner(s) of Property , Grantor, to

WISCONSIN PUBLIC SERVICE CORPORATION, a Wisconsin corporation, Grantee,

__ List other utility companies to be named on joint easement – if none delete line(s) __Grantee, and

__ List other utility companies to be named on joint easement – if none delete line(s) __, Grantee

their respective successors and assigns, to construct, install, operate, repair, maintain and replace from time to time, facilities used in connection with overhead and underground transmission and distribution of electricity and electric energy, natural gas, telephone and cable TV facilities for such purposes as the same is now or may hereafter be used, all in, over, under, across, along and upon the property shown within those areas on the plat designated as "Utility Easement" and the property designated on the plat for streets and alleys, whether public or private, together with the right to install service connections upon, across, within and beneath the surface of each lot to serve improvements, thereon, or on adjacent lots; also the right to trim or cut down trees, brush and roots as may be reasonably required incident to the rights herein given, and the right to enter upon the subdivided property for all such purposes. The Grantees agree to restore or cause to have restored, the property, as nearly as is reasonably possible, to the condition existing prior to such entry by the Grantees or their agents. This restoration, however, does not apply to the initial installation of said underground and/or above ground electric facilities, natural gas facilities, or telephone and cable TV facilities or to any trees, brush or roots which may be removed at any time pursuant to the rights herein granted. Structures shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "Utility Easement" without the prior written consent of Grantees. After installation of any such facilities, the grade of the subdivided property shall not be altered by more than six inches without written consent of grantees. This Utility Easement Provision does not prevent or prohibit others from utilizing or crossing the Utility Easement as the Utility easement(s) are non-exclusive.

The grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

Steven M. Bieda
PLS-2275
September 22, 2016



Office of the Register of Deeds
Brown County, Wisconsin

Received for Record _____, 20____,

at _____ o'clock ____ M and recorded as

Document # _____ in

Volume _____ of _____ on Page _____.

Cathy Williquette Lindsay, Register of Deeds

Sheet Three of Three
Project No.: R-17606
Drawing No.: L-9237

Item #6: Review the CSM Application for a two lot CSM on the south end of American Boulevard parcel WD-L492-B. Surveyor: Mau & Associates.*

WD-L492-B is being divided into two lots. Lot 1 is 20.82 acres and lot 2 is 19.62 acres. Lot 1 will be sold to Green Bay Packaging for future growth and lot 2 will continue to be marketed by the City. Lot 1 would have access from American Boulevard. Lot 2 will most likely still be divided as needed.



Figure 1. Location of proposed CSM.

Recommendation

Staff would recommend approval of the CSM, and that the CSM be forwarded to the Common Council for approval.

City of De Pere, Wisconsin

**Request For Board of Health Action**

MEETING DATE: October 4, 2016

DEPARTMENT: Health Department

FROM: Chrystal Woller

SUBJECT: Resolution #16-108, Authorizing Contract to Administer the Retail Food and Recreational Programs for the Wisconsin Department of Agriculture Trade and Consumer Protection.

In July of 2016, the Department of Health Services-Food Safety Division merged with the Department of Ag, Trade and Consumer Protection at the State level. For this reason, the State needed to revise their current agent contract that De Pere Health Department had on file.

ATTACHMENTS:

- Reso16-108 (DOCX)
- De Pere Agent Contract 2016 (PDF)

RESOLUTION #16-108

AUTHORIZING CONTRACT TO ADMINISTER THE RETAIL FOOD AND
RECREATIONAL PROGRAMS FOR THE WISCONSIN DEPARTMENT OF
AGRICULTURE, TRADE AND CONSUMER PROTECTION

WHEREAS, the City of De Pere Health Department wishes to continue its designation as a local agent for the Wisconsin Department of Agriculture, Trade and Consumer protection for purposes of administering the retail food and recreational establishment licensing program; and

WHEREAS, this matter has been reviewed by the Board of Health, which recommends approval thereof.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

The Mayor is hereby authorized and directed to execute the Contract to Administer the Retail Food and Recreational Programs for the Wisconsin Department of Agriculture, Trade and Consumer Protection as is attached hereto, subject to such changes as deemed necessary by the City Attorney.

BE IT FURTHER RESOLVED THAT:

All City officials, officers, and employees are further authorized and directed to take such steps as are lawful and necessary in furtherance thereof.

Adopted by the Common Council of the City of De Pere, Wisconsin, this 4th day of October, 2016.

APPROVED:

Michael J. Walsh, Mayor

ATTEST:

Shana D. Ledvina, Clerk-Treasurer

Ayes: _____

Nays: _____

**CONTRACT TO ADMINISTER THE
RETAIL FOOD AND RECREATIONAL PROGRAMS
FOR THE WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION**

This Contract is made between the **Wisconsin Department of Agriculture, Trade and Consumer Protection** ("the Department") and **De Pere Health Department** ("the Agent"), pursuant to Wis. Stat. §§ 97.41 and 97.615 and Wis. Admin. Code ch. ATPC 74, authorizing the Department to enter into a written contract designating a local health department, defined in Wis. Stat. § 250.01 (4), to act as the Department's local agent to administer the retail food and recreational establishment program. The Department designates and authorizes **De Pere Health Department** to act as the Department's agent for the purpose of enforcing Wis. Stat. § 97.30 and Subchs. III and IV of ch. 97, and the applicable provisions of the Wisconsin Administrative Code.

The Agent's jurisdiction under this Contract includes the following geographic area(s): **City of De Pere**

This Contract shall run from July 1, 2016 to June 30, 2019 and shall remain in effect, unless specifically terminated, revoked or suspended under Section XIV. The Department shall issue contracts, for future contract periods, to the Agent by January 1st of the last year of the current contract. The Agent shall commit to continue as the Department's Agent for the future contract period, by signing and returning the contract by March 1st of the last year of the current contract.

The Agent hereby agrees to protect public health and safety, as the agent of the Department under Wis. Stat. § 97.30 and Subchs. III and IV of ch. 97, and Wis. Admin. Code ch. ATPC 74, and the terms and conditions of this Contract. The Agent agrees to issue licenses to, inspect, and regulate retail food establishments (including restaurants), campgrounds, recreational and educational camps, public swimming pools and water attractions, hotels, motels, tourist rooming houses, and bed and breakfast establishments, as specified in this Contract, enforcing all applicable provisions of the Wisconsin Statutes and Administrative Code and associated Department policies including, but not necessarily limited to, Wis. Stat. § 97.30 and Subchs. III and IV of ch. 97, and Wis. Admin. Code chs. ATPC 72 (Hotel, Motel and Tourist Rooming Houses), 73 (Bed and Breakfast Establishments), 74 (Local Agents and Regulation), 75 (Retail Food Establishments) and Appendix (Wisconsin Food Code), 76 (Safety, Maintenance, and Operation of Public Pools and Water Attractions), 78 (Recreational and Educational Camps), and 79 (Campgrounds). If the Agent inspects individual vending machines, the Agent will receive reimbursement from the Department.

The Department agrees to fulfill its responsibilities to the Agent required by Wis. Stat. § 97.30 and Subchs. III and IV of ch. 97, Wis. Admin. Code ch. ATPC 74, and this Contract.

This Contract incorporates any amendments to the statutes or administrative rules cited in this Contract, as well as any additional statutes or rules, related to retail food and recreational establishment licensing that may be enacted or adopted during the term of this Contract. The

Agent agrees that all of its obligations under this Contract include any of these amendments, enactments or adoptions.

I. DEFINITIONS

- A. **The Agent** means the local public health department (LPHD) operating under the terms of this Contract, unless the context indicates it means any local public health department acting as the Department's agent under Wis. Stat. §§ 97.41 and 97.615.
- B. **Agent Program Plan** means the plan developed by the Agent for the administration of the agent program and enforcement of Wis. Stat. § 97.30 and Subchs. III and IV of ch. 97, related provisions of the Wisconsin Administrative Code, and any applicable local ordinances or regulations cited in its enforcement actions for the types of facilities for which the Agent has been delegated agent status.
- C. **Agent Standard** means a member of the Agent's inspection staff, responsible for leading standardization exercises for the environmental health inspection personnel in the Agent's jurisdiction, who has successfully completed the initial standardization process, is current in their inspection standardization maintenance exercises, and has received a letter of completion from the Department.
- D. **Complaint** means an allegation, presented to an Agent or the Department, of a possible public health hazard or violation of any provision of the Wisconsin Statutes and Administrative Code or a local public health ordinance or regulation.
- E. **Conflict of interest** means a conflict between the private interests and the official responsibilities of a person in a position of trust. As provided in Wis. Stat. § 19.59 (1), a conflict of interest occurs when the exercise of a person's official responsibilities gives the person the opportunity to obtain financial gain or anything of substantial value for the private benefit of himself or herself, his or her immediate family, or an organization with which he or she is associated.
- F. **The Department** means the Wisconsin Department of Agriculture, Trade and Consumer Protection.
- G. **Enforcement Action** means a statutorily-authorized action imposed on a licensee for non-compliance with a provision of the Wisconsin Statutes, Administrative Code, local public health ordinance or regulation. Enforcement actions include, but are not limited to, holding orders, citations, forfeitures, temporary orders, suspension or revocation of a license.
- H. **Establishment** or **Facility** means a retail food establishment, hotel, motel, tourist rooming house, bed and breakfast establishment, food vending machine, camping resort or other campground, recreational educational camp, public swimming pool or water attraction.
- I. **Fiscal Year** means the period from July 1 through June 30 of each year.

- J. **Follow up Inspection** means a non-mandatory inspection by the Agent to ensure non-critical violations, cited in a routine inspection, have been corrected by a licensee.
- K. **Foodborne Outbreak** means the occurrence of two or more cases of a similar illness of persons, resulting from the ingestion of a common food.
- L. **Inspection Fee** means a fee charged by the Department or the Agent, for inspection services required under a Memorandum of Understanding (MOU), or a fee charged by the Agent for inspecting a mobile food establishment or temporary food establishment that has a valid license from another jurisdiction or the Department.
- M. **License** means an annual written authorization issued by the Department or the Agent, required to operate an establishment.
- N. **Licensee** means the person or entity licensed to operate the establishment.
- O. **Local Public Health Ordinance or Regulation** means an ordinance adopted by a village, city or county, or a regulation adopted by a local board of health, as the Department's agent, pursuant to Wis. Stat. § 97.41 (7) or 97.615 (2) (g).
- P. **Memorandum of Understanding (MOU)** means an agreement between the Department and another state agency for designating each agency's responsibilities in shared governance.
- Q. **Person** means an individual, married couple, legal entity of a partnership, corporation, or limited liability corporation, municipality, county, town, or state or local agency.
- R. **Pre-licensing Inspection** means an inspection that must be completed before a license is granted and the licensee may begin operating.
- S. **Program Evaluation** means an assessment by the Department of the Agent's adherence to the provisions of this Contract.
- T. **REHS / RS** means the National Environmental Health Association (NEHA) Registered Environmental Health Specialist/Registered Sanitarian or the Wisconsin Registered Sanitarian credential.
- U. **Reimbursement** means the portion of the license fee, collected by the Agent, that is remitted to the Department, pursuant to Wis. Stat. § 97.41 (5) or 97.615 (2) (e).
- V. **Reinspection** means a mandatory inspection to ensure that priority, critical or recurring violations have been corrected, including:

- a. An observed violation of immediate danger to public health (priority or critical) that is not corrected during the inspection;
 - b. Six or more priority (critical) violations observed and noted,
 - c. Repeat violations noted during two previous inspections (3 consecutive times); or
 - d. With consultation from a supervisor, an excessive number of violations that show a lack of managerial control observed during an inspection.
- W. **Routine inspection** means the annual evaluation of a licensee's operation of its establishment.
- X. **Standardization (initial)** means an environmental health inspection staff person's first successful completion of required field exercises by using risk based inspection methods.
- Y. **Standardization (maintenance)** means an environmental health inspection staff person's successful completion of field exercises by using risk based inspection methods, required every three years to maintain standardization certification.
- Z. **State Fees** means the Department's fees in Wis. Stat. §§ 97.41 (5) and 97.615 (2) (e), levied to recoup Department costs related to setting standards and for monitoring and evaluating the activities of, and providing education and training to, agent local health departments.
- AA. **State License Fees** means the license fees set by the Department, pursuant to Wis. Stat. §§ 97.30 (3) and (3m), 97.613, and 97.67 (4).
- BB. **Waterborne Outbreak** means the occurrence of two or more cases of a similar illness of persons after the ingestion of drinking water from the same source, or after exposure to water from the same source used for recreational purposes, and for which epidemiologic evidence implicates water as the probable source of the illness.

II. ISSUING LICENSES

- A. The Agent shall issue licenses to all facilities designated in this contract within its jurisdiction except:
- 1. Mobile retail food establishments that cross geographical boundaries, in conducting their business, shall be licensed by the Department under Wis. Stat. § 97.30 (2) (a).
 - a. If the mobile retail food establishment has a service base, as defined in Wis. Admin. Code ch. ATCP 75 Appendix Part 1-201.10 (B), located within their jurisdictional boundary, the Agent shall issue the service base license.

- b. The Agent may charge an inspection fee for any inspection of a Department-licensed mobile retail food establishment.
 - 2. Temporary retail food establishments that cross jurisdictional boundaries, in conducting their business, shall be licensed by the Department under Wis. Stat. § 97.30 (2) (a).
 - a. The Department shall provide a guidance document for the Agent to use to determine which temporary retail food establishment license applies.
 - b. The Agent may charge an inspection fee for any inspection of a Department-licensed temporary retail food establishment.
 - 3. Any establishment exempt from the requirement to hold a retail food establishment license, pursuant to Wis. Stat. § 97.30 (2) (b), are under the regulatory authority of the Department and may not be licensed or inspected, in any manner related to food, dairy or meat processing, wholesale or retail operations, by the Agent.
- B. The Agent shall require a person who applies for, or a licensee who requests renewal of, a license to include, at a minimum, the following information:
 - 1. Individual, Married Couple or Legal Entity who will hold the license and complete address.
 - 2. Doing Business As (DBA) Name and complete address of the establishment.
 - 3. License number and expiration date of any current license.
 - 4. Type of Establishment, for licensing purposes
 - 5. Numbers of units, rooms, or sites and complexity, if applicable.
- C. A license issued by the Agent shall expire on June 30 of each year, except that a new license issued during the period beginning on April 1 and ending on June 30 shall expire on June 30 of the following year (15-month license), except as follows: The Agent of a city of the 1st class that has entered into a Contract with the Department may issue a required license for a retail food establishment or bed and breakfast establishment at any time during the year, which shall expire one year from the date of its issuance.
- D. The Agent shall not transfer a retail food establishment license from the individual, married couple, or legal entity who holds the license to a different individual, married couple or legal entity, except if an individual holding the license requests to have the license placed in the name of his or her spouse as well as the individual, or

if an individual requests to have the license changed from the married couple to that individual. A copy of a marriage certificate, divorce decree, or a notarized letter from a spouse is sufficient to allow this change to be made.

- E. The Agent shall transfer any license held for a hotel, tourist rooming house, bed and breakfast establishment, or vending machine commissary, as required in Wis. Stat. § 97.605 (4).
- F. The Agent shall transfer any license held for a campground, camping ground, recreational or educational camp, or public swimming pool, as required in Wis. Stat. § 97.67 (2).

III. INSPECTIONS

- A. Each fiscal year the Agent shall conduct one routine inspection of each license holder's facility under its jurisdiction, except for vending machines, to determine if the facility is in compliance with the requirements of the applicable provisions of the Wisconsin Statutes and Administrative Code and any local public health ordinances and regulations adopted under Wis. Stat. § 97.41 (7) or 97.615 (2) (g).
 - 1. The Agent may propose a different inspection frequency to the Department that may only be implemented if approved by the Department, in writing.
 - 2. The Agent shall conduct an investigation if there is a complaint concerning an exempt retail food establishment, as defined in Wis. Admin. Code § ATCP 75.03 (9), within its jurisdiction, or upon Department request.
- B. Agent may elect, in writing to the Department, to inspect vending machines.
- C. Agent shall give priority to pre-licensing inspections, inspections involving emergency complaints, food or waterborne illness investigations, and re-inspections.
- D. A routine inspection shall be unannounced except when it is necessary that the owner or operator be present for the inspection, or when the Agent is conducting a follow-up inspection, reinspection or other activity where having the owner or operator present is important for continued compliance.
- E. If a routine inspection is performed in conjunction with another investigation, a separate inspection report shall be completed for the investigation and the routine inspection. Each report shall be signed by the environmental health inspection staff person and the operator.
- F. The Agent shall perform inspection duties required by, and in compliance with, the Department's MOU's. The Department will provide the Agent a copy of each MOU it executes.

- G. The Agent may, with written approval from the Department, enter into written contracts with other units of government or other persons to perform inspection activities related to enforcement responsibilities under this Contract. The Agent assumes ultimate responsibility for the performance and quality of the inspections and for the enforcement of all applicable provisions of the Wisconsin Statutes and Administrative Code under this Contract.
- H. Other than inspections involving foodborne or waterborne outbreaks, which require an immediate response, the Agent shall conduct inspections due to any complaints against an establishment in a timely and adequate manner. Each complaint, and documentation of its investigation, shall be physically or electronically linked with the establishment licensing and inspection information.
- I. When the Agent receives information that indicates a foodborne or waterborne outbreak has occurred, the Agent shall conduct an investigation. In conducting the investigation, the Agent shall follow the criteria in the Wisconsin's Foodborne and Waterborne Disease Outbreak Investigation Manual. The Agent shall conduct an investigation of the facility, in which the outbreak occurred, as soon as epidemiological evidence links that facility with the outbreak. In addition:
 - 1. The Agent shall notify the Department and the Department of Health Services' (DHS) Communicable Disease Epidemiology Section (CDES.)
 - 2. Upon the Agent's request, the Department shall assist in the investigation.
 - 3. In the event the outbreak becomes cross-jurisdictional, the Department, in coordination with DHS CDES, will coordinate the activities of the Agent and other governmental agencies in order to most quickly and effectively end the outbreak.
- J. The Agent shall include in its inspection report the following information for each violation observed during an inspection:
 - 1. Violation Observation – A factual description, including location, of the observed violation.
 - 2. Code Reference – Citation and a brief description of the statute, administrative rule, or local ordinance for the observed violation.
 - 3. Corrective Action – A statement indicating what action the licensee has taken, or shall take, to regain compliance with the administrative rule, statute or local ordinance.
- K. The Agent shall perform an exit interview with the licensee's designated person in charge and obtain a signature. A copy of the inspection report shall be left with the person in charge at the completion of the inspection or e-mailed or otherwise presented shortly thereafter. If the person in charge refuses to sign the inspection

report, an indication shall be made on the inspection report of the refusal to provide a signature.

- L. If the Agent became the Department's agent on or after April 1, 2009, the Agent shall use the Department's electronic software program for conducting and documenting inspections. If the Agent has been the Department's agent before April 1, 2009, the Agent may use the Department's electronic software program or the Department-approved paper forms for conducting inspections. The Department will provide, maintain and support this software. The Agent may be responsible for additional user licenses or development costs specific to the Agent's program.
- M. The Department may conduct an inspection of any establishment in the Agent's jurisdiction in response to any emergency, for the purpose of monitoring and evaluating the Agent's activities pursuant to this Contract, for the purpose of training or education, or at the Agent's request. The Department shall make a reasonable effort to notify the Agent before conducting an inspection. Agent may accompany the Department during such inspections.
- N. The Agent, if requested by the Department, shall conduct effectiveness checks pertaining to product recalls or other situations in which food must be removed from sale or service.

IV. ENFORCEMENT

- A. The Agent shall take necessary and reasonable action to enforce Wis. Stat. § 97.30 and Subchs. III and IV of ch. 97, Wis. Admin. Code chs. ATP 72, 73, 75 & Appendix, 76, 78 and 79, and any local ordinances or regulations adopted pursuant to Wis. Stat. §§ 97.41 (7) and 97.615 (2) (g), for the establishments for which Agent has been delegated authority under this Contract including, but not limited to, the following:
 - 1. An immediate danger to public health as required in Wis. Stat. §§ 97.12 and 97.65.
 - 2. Noncompliance with written orders.
 - 3. Continued repeat violations noted on inspection reports.
 - 4. Operating without a required establishment license.
- B. The Agent shall cover the costs of these actions.
- C. The Department shall provide technical assistance to the Agent for enforcement activities upon the Agent's request.

- D. The Agent shall notify the Department, in writing, within 10 days after taking any enforcement action to suspend or revoke a license or initiating a court action against a license-holder.
- E. The Agent shall implement and distribute to all its inspection staff, the Agent Program Plan required by Wis. Admin. Code ch. ATP 74. The Department shall review the plan, and any changes to it, during the Department's periodic evaluations of the Agent's performance.
- F. If the Agent has been notified by the Department of any deficiency on the part of a facility under its jurisdiction, in complying with the applicable statutory, administrative code or local ordinance requirements, and if Agent has had reasonable opportunity to take enforcement action but has failed to act expeditiously in taking appropriate enforcement action, the Department may act under Wis. Stat. §§ 97.12 and 97.65 to enforce compliance.
- G. If the Department makes a request, the Agent shall conduct food or environmental sampling from any establishment in the Agent's jurisdiction for laboratory analysis.
 - 1. The Agent may conduct the analysis if its laboratory is capable of performing the required analytical procedures.
 - a) The Agent shall assume all costs involved in collecting the samples and running the analysis.
 - b) The Agent shall inform the department of the analysis results.
 - 2. If the Agent does not have the laboratory capability to perform the required analyses, or who choose not to perform the analyses, the Agent shall submit the samples to the Department's Bureau of Laboratory Services (BLS) or the State Lab of Hygiene (LOH).
 - a) The Agent shall fund the cost of acquiring any samples and shipping the samples to the laboratory.
 - b) The Department shall fund the cost of the laboratory analysis of the samples.

V. STAFFING

- A. The Agent shall employ at least one Wisconsin Registered Sanitarian (WI-RS) or Registered Environmental Health Specialist / Registered Sanitarian (REHS/RS) to conduct inspections or supervise other non-RS sanitarians who conduct inspections. After July 1, 2017, the Agent shall only hire qualified personnel, to conduct inspections under this Contract, who are RS-eligible or be considered an RS in training and shall become Registered Sanitarians, as provided in Wis. Admin. Code ch. ATP 74, within 3 years. Existing staff hired before July 1, 2017, shall be under

the supervision of an RS/REHS and shall be working towards the completion of their RS/REHS credential. The expectation is that all inspection work completed under this contract is accomplished by a RS/REHS credentialed staff.

- B. If the Agent loses its only WI-RS or REHS/RS, Agent shall hire a RS/REHS replacement within 120 days; or upon the Agent's written request, the Department, in its sole discretion, may allow the Agent additional time to hire a qualified replacement. A replacement that does not hold the WI-RS or REHS/RS credential may be hired, if approved by the Department, and if a Contract has been executed to ensure that a person holding the credential provides oversight. The replacement hire shall attain the WI-RS or REHS/RS credential within six months of being hired. A copy of the oversight Contract shall be provided to the Department and shall include the amount of time allotted for oversight activities and what specific duties the supervising REHS/RS will provide.
- C. The Agent shall designate at least one environmental health inspection staff person, as required by the Department, to undergo the standardization process in the retail food program. The initial standardization process involves the number of establishment exercises in the Wisconsin Standardization Manual. After successfully completing the exercises, the staff person shall be designated as the Agent Standard. The Agent Standard shall perform the Department-required maintenance exercises, as described in the Wisconsin Standardization Manual, every three years to maintain certification. The Agent shall have at least one Agent Standard who shall standardize the other members of the Agent's environmental health inspection personnel, using the standardization process described above. As the Department develops standardization processes for programs other than the retail food program, the Agent will comply with the standardization process in those programs.
- D. The Agent's staff shall participate on Department rule making and policy advisory committees when requested.
- E. The Agent shall make written environmental health inspection staffing arrangements to assure adequate coverage during the absence of regular inspection and enforcement staff. These arrangements shall be made a part of the Agent's Program Plan, approved by the Department before implementation, and available for the Department's review during periodic evaluations.
- F. The Agent shall not permit an employee to conduct an inspection in a situation in which the employee may have a conflict of interest.
- G. Upon the Agent's request, DATCP will provide technical assistance and training to staff.
- H. The Agent is required to send at least one environmental health inspection staff person to the Department's annual training meetings and conferences.

VI. EDUCATIONAL OUTREACH

The Agent will cooperate with the Department in conducting training programs for licensees and employees of establishments located in its jurisdiction.

VII. REPORTS AND RECORDS

- A. The Agent shall maintain a file of the current records for each licensed facility within its jurisdiction. Records shall include the name, address, ID number and type of establishment or facility. A file shall contain at least the latest three (3) years of inspection reports, follow-up investigation reports, reports of enforcement actions, confirmed complaint follow-ups and summaries, foodborne disease outbreak information, and approvals of variance requests, HACCP plans and waivers.
- B. If the Agent is not using the Department's electronic inspection and licensing software, the Agent shall use inspection report forms approved by the Department for all pre-licensing inspections, routine inspections, re-inspections, and follow-up inspections.
- C. The Agent shall submit reports as requested by the Department. The Department may review or request a copy of any inspection report, correspondence, or order served on any licensee within Agent's jurisdiction; annual program budget reports, projections, and any other report the Department determines it needs to monitor the Agent's performance, including, but not limited to, CDC risk factor reports, self- assessments, or any other required reports, pursuant to Wis. Stat. § 97.41 (7) or 97.615 (2) (g) or Wis. Admin. Code ch. ATCP 74.
- D. By the 10th of the month immediately following the month in which the Agent issues a license, or receives notification from a licensee of a change affecting its license, the Agent shall provide a report of all such license issuances and changes to the Department. This requirement applies to temporary restaurants, as defined in Wis. Admin. Code ch. ATCP 75. This reporting requirement is satisfied by the Agent's use of the Department's electronic licensing and inspection software.
- E. By September 1 of each year, the Agent shall give the Department a complete list of the names and addresses of the licensees to whom licenses were issued by the Agent during the previous fiscal year. This reporting requirement is satisfied by the Agent's use of the Department's electronic licensing and inspection software.
- F. The Agent shall maintain records documenting the cost of issuing licenses to, making investigations and inspections of, and providing education, training and technical assistance to licensees, and the cost of enforcing applicable state statutes and rules and local ordinances. Upon request, the Agent shall provide copies of these records to the Department.

- G. Within ten (10) days after the date on which it takes place, Agent shall report to the Department, in writing, any change in the assignment of a supervisor of the environmental health inspection personnel who are not currently Wisconsin registered sanitarians and any change in the organization of the inspection staff, including authority line changes. If the Agent employs only one or two sanitarians, the Agent shall report any change in assignment of environmental health inspection personnel that are providing services under this Contract.
- H. The Agent shall submit the CDC Risk Factor Tracking Sheet annually to the Department for the purpose of enabling the Department to determine the types of violations found in facilities throughout the State of Wisconsin. This reporting requirement is satisfied by the Agent's use of the Department's electronic licensing and inspection software.
- I. As required by Wis. Admin. Code ch. ATP 74, the Agent shall maintain and keep readily available for use by inspection staff and review by the Department, a copy of its Agent Program Plan. The plan shall include, at a minimum, all the components identified in Wis. Admin. Code ch. ATP 74 and any other information the Department requests in writing that it determines is necessary or relevant for its review of the plan. The minimum components include:
 - 1. Identification of any employee that will issue licenses or conduct investigations and inspections.
 - 2. A description of the staffing and budget for issuing licenses, making investigations and inspections, providing technical assistance, and enforcing applicable state statutes and rules, and local ordinances.
 - 3. A list of the fees to be charged by the Agent to licensees under this Contract.
 - 4. A description of the Agent's license issuance and recordkeeping system maintained under this Contract.
 - 5. A declaration that Agent will contract with the Department, as permitted by Wis. Stat. §§ 97.41 and 97.615, if the Agent wants the Department to collect fees and issue licenses.
 - 6. A description of the inspection and enforcement program implemented by the Agent, with a copy of any applicable city or county ordinance or regulation.
 - 7. A plan of action to ensure that there will be cooperation between the Agent and appropriate federal, state and local agencies, in the event of a natural disaster or other emergency.

8. Procedures for the investigation and follow-up of complaints concerning licensees under this Contract and unlicensed activity that may require licensing and inspection.
9. Procedures for notifying the Department when the Agent receives information or a complaint concerning an establishment, within the Agent's geographical area but under the Department's jurisdiction, that may need to be licensed or inspected.
10. Procedures for the investigation and follow-up of reports of suspected foodborne illness, including cooperation with the Department's Rapid Response Team.
11. Procedures to ensure the time period, within which the Agent will make a determination on an application for a license, does not exceed 30 days following receipt of a complete application.
12. An assurance of continued support by the city or county for carrying out this Contract.
13. Any other information which the Department considers necessary or relevant for its review of Agent's Program Plan.

VIII. REIMBURSEMENT BY THE DEPARTMENT FOR VENDING INSPECTIONS

- A. The Agent shall submit a list of vending machine inspections it conducted during the previous fiscal year to the Department, no later than August 30 unless the Department in its sole discretion extends the deadline for submission, to receive reimbursement from the Department for performing the inspections.
- B. No later than September 30 of the next fiscal year, the Department shall reimburse the Agent for inspections of vending machines during the previous fiscal year, as required in Wis. Stat. § 97.615 (1). If the Department extends the deadline for submitting inspection information, the Department may reimburse the Agent up to 30 days after receiving this information. The reimbursement amount for vending machine inspections is the portion that remains after deducting the Department's clerical and automated licensing processing costs from the license fee.
- C. Fee reimbursements for the inspection of vending machines moved from one Agent's jurisdiction to another Agent's jurisdiction will be credited to the Agent making the first inspection during the fiscal year.

IX. REIMBURSEMENT TO THE DEPARTMENT FOR STATE FEES COLLECTED BY AGENT

- A. The Agent shall reimburse the Department for the state fees from the license fees the Agent collects, as provided under sub. B.

- B. The state fees shall not exceed 20% of the state license fees the Department sets by administrative rule for the types of facilities for which the Agent issues licenses. The calculation of the state fees is based on state license fees only, not preinspection and reinspection fees.
- C. As of the date of this Contract, the state fees are 10% of the state license fees. The department may increase the state fees up to 20% of the state license fees by announcing a change in the percentage prior to the licensing year for which the change applies. Retail food and recreational establishment license fee reimbursement shall be:
 - 1. A fee equal to 10% of the applicable state license fee, regardless of the license fee actually charged by the local agent, if the local agent prepares and submits to the Department, by September 30 of that year, an annual self-assessment as required by Wis. Stat. §§ 97.41 and 97.615.
 - 2. A fee equal to 20% of the applicable state license, regardless of the license fee actually charged by the local agent, if the local agent fails to submit the annual self-assessment in par. 1. to the Department, by September 30 of that year. A fee payment under this paragraph does not exempt the Agent from the duty to prepare and submit an annual self-assessment.
- D. The Department shall provide the Agent with a reimbursement summary form to be used by the Agent to identify all the facilities for which the Agent has issued licenses during the licensing year. The summary shall be formatted by the Agent to include the complexity assessment rating assigned to each retail food establishment licensed during the licensing year.
- E. State fees for each licensee shall be based on the state license fee, determined by the license category as follows:
 - 1. Retail Food Establishments - Restaurants -are determined using the table in Wis. Admin. Code Subch. III of ch. ATPCP 75 for restaurant license category. The Agent may use the restaurant license category assignment formula in that subchapter or a complexity tool approved in writing by the Department.
 - 2. Retail Food Establishments – Values, listed in Wis. Admin. Code § ATPCP 75.03, shall be used in determining the license category.
 - 3. Recreation Facilities – Values, listed in Wis. Admin. Code chs. ATPCP 72, 73, 76, 78 and 79, shall be used in determining the license category.
- F. No later than September 30 of each year, the Agent shall return the completed summary form and reimburse the Department for the state fees.

X. COSTS

The total fees the Agent collects may not exceed the Agent's reasonable costs of issuing licenses to, making investigations and inspections of, and providing education, training and technical assistance to licensed establishments, plus the state fees.

XI. EVALUATION

- A. The Department shall perform an evaluation of the Agent's licensing, investigation and inspection program to determine whether the Agent meets the program standards set by the Department and applicable administrative rules, as required under Wis. Stat. §§ 97.41 (2) and 97.615 (2) (b) and this Contract. The evaluation will consist of the following:
1. The Agent shall submit an annual self-assessment report to the Department, no later than September 30, which the Department shall use as part of its onsite evaluation of the Agent's performance.
 2. The Department shall conduct an onsite evaluation, at least once every three years, to assess the Agent's compliance with the provisions of this Contract, program standards set by the Department and applicable statutes and administrative rules. The Department may conduct the onsite evaluation process at any reasonable time and shall give the Agent reasonable advance notice. The onsite evaluation process shall include an office component and a field component. The office component shall include, but is not limited to, review of ordinances, regulations, inspection reports, budget information, and other required documentation. The field component shall include the Department personnel performing maintenance standardization with the Sanitarian who is the Agent - Standard, as well as evaluating other sanitarians, if applicable.
- B. In addition to the required evaluation, the Department may perform additional evaluations of the Agent's performance at any reasonable time with reasonable advance notice.
- C. As part of the Department's onsite evaluation report, the Department shall notify the Agent of any deficiencies in standards set by the Department, the Agent's inspection, permit issuance or enforcement program and establish a deadline for correction of the deficiencies.
- D. In response to the Department's report, if needed, the Agent shall submit to the Department a draft Corrective Action Plan, detailing how the Agent will meet contract requirements and the recommendations based on the Department's program standards and conformance to Wisconsin Statutes and Administrative Rules and this Contract.

- E. The Department, after receiving the draft Corrective Action Plan, shall review, make additional comments, and approve the Corrective Action Plan when it is deemed acceptable.
- F. The Agent shall include the approved Corrective Action Plan in its Agent Program Plan and distribute it to its staff as required in Section IV. E.
- G. The Agent shall document progress on the approved Corrective Action Plan on their next one or two yearly self-assessments as necessary.
- H. The Department may, at its discretion, increase the frequency of evaluation for the Agent as deems necessary.
- I. If the Agent fails to meet the conditions of the Corrective Action Plan in the Agent Program Plan, the Department shall do the following:
 - 1. In writing, the Department shall notify the Agent of the deficiency and the agent contract shall be placed in a conditional status, with a deadline set for the Agent to meet the conditions and return to full compliance.
 - 2. If deficiencies are corrected within the conditional time period, the contract is returned to active status.
 - 3. If deficiencies remain uncorrected after a conditional deadline has passed, the Department shall notify the Agent of its intent to terminate the contract and revoke agent status, as provided under XIV (B) of this Contract.

XII. NONDISCRIMINATION

- A. In connection with the performance of work under this Contract, the Agent agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Stats., sexual orientation as defined in s. 111.32(13m), Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Agent shall take affirmative action to ensure equal employment opportunities. The Agent shall post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.
- B. The Department assumes no liability for the job safety or welfare of the Agent employees, or for the actions or omissions of the Agent employees relating to the administration of the retail food and recreational program, except as otherwise provided by law.

XIII. PRIVACY AND CONFIDENTIAL INFORMATION

A. Definitions: The following definitions apply to this section.

- 1 “*Confidential Information*” : means all tangible and intangible information and materials, including all Personally Identifiable Information, being disclosed in connection with this Contract, in any form or medium (and without regard to whether the information is owned by the State or by a third party), that satisfy at least one of the following criteria
 - a) Personally Identifiable Information as defined in 2;
 - b) Information not subject to disclosure under Wis. Stat. ch. 19, subch. II, Public Records and Property, that is related to the Department’s employees, customers, technology (including data bases, data processing and communications networking systems), schematics, specifications, and all information or materials derived therefrom or based thereon; or
 - c) Information expressly designated as confidential in writing by the Department.
- 2 “Personally Identifiable Information” means an individual’s last name and the individual’s first name or first initial, in combination with, and linked to, any of the following elements, if the element is not publicly available information and is not encrypted, redacted, or altered in any manner that renders the element unreadable:
 - a) The individual’s Social Security number;
 - b) The individual’s driver’s license number or state identification number;
 - c) The number of the individual’s financial account, including a credit or debit card account number or any security code, access code, or password that would permit access to the individual’s financial account;
 - d) The individual’s DNA profile; or
 - e) The individual’s unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation, and any other information protected by state or federal law.
- 3 “Corrective Action Plan” means a plan, developed by the Agent and approved by the Department, that the Agent must follow in the event of any threatened or actual use or disclosure of any Confidential Information not specifically authorized by this Contract, or in the event that any Confidential Information is lost or cannot be accounted for by the Agent.

B. Duty of Non-Disclosure and Security Precautions

1. The Agent shall not use Confidential Information for any purpose other than the limited purposes set forth in this Contract and all related and necessary actions taken in fulfillment of the obligations thereunder. The Agent shall not disclose such Confidential Information to any persons other than those Agent Representatives who have a business-related need to have access to such Confidential Information in furtherance of the limited purposes of this Contract and who have been apprised of, and agree to maintain, the confidential nature of such information in accordance with the terms of this Contract. The Agent shall be responsible for the breach of this Contract by any said Representatives.
2. The Agent shall institute and maintain such security procedures as are reasonable to maintain the confidentiality of the Confidential Information while in its possession or control including transportation or transmission, whether physically or electronically.
3. The Agent shall insure that all indications of confidentiality contained on or included in any item of Confidential Information shall be reproduced by the Agent on any reproduction, modification, or translation of such Confidential Information. If requested by the department, Agent shall make a reasonable effort to add a proprietary notice or indication of confidentiality to any tangible materials within its possession that contain Confidential Information of the department, as directed.
4. The Agent shall return to the department all Personally Identifiable Information it maintains possesses or controls, collected on behalf of this Contract, upon termination of this Contract and shall destroy all copies.

- C. Legal Disclosure. If Agent or any of its Representatives shall be under a legal obligation in any administrative, regulatory or judicial circumstance to disclose any Confidential Information, the Agent shall give the Department's Office of Legal Counsel prompt notice thereof (unless it has a legal obligation to the contrary) to allow the department to inspect the Confidential Information and seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, Agent and its Representatives shall furnish only that portion of the information that is legally required and shall disclose the Confidential Information in a manner reasonably designed to preserve its confidential nature. Agent or its representatives shall not be obligated to wait on any action or inaction by the Department, under this section, at any time when Agent is required to release information under other authority of law.

D. Unauthorized Use, Disclosure or Loss

1. Immediately upon becoming aware of any threatened or actual use or disclosure of any Confidential Information that is not specifically authorized by this Contract, or that any Confidential Information has been lost or is unaccounted for, the Agent

shall notify the Department's Office of Legal Counsel of the problem. Such notice shall include, to the best of the local agent's knowledge at that time, the persons affected, their identities and the Confidential Information disclosed.

2. The Agent shall take immediate steps to mitigate any harmful effects of the unauthorized use, disclosure or loss. The Agent shall cooperate with the Department's efforts to seek appropriate injunctive relief or to otherwise prevent or curtail such threatened or actual breach, or to recover the Confidential Information, including complying with a Corrective Action Plan.

XIV. TERMINATION, REVOCATION OR SUSPENSION OF AGENT CONTRACT

- A. **TERMINATION.** The Agent may terminate this Contract upon 90 days written notice to the Department. The notice shall specify the reasons for termination and the last day the Agent will have agent status.
- B. **REVOCATION.** If the Department finds that the Agent has failed to comply with the requirements for agent status under Wis. Stat. § 97.41(2) or 97.615 (2) (b), Wis. Admin. Code ch. ATCP 74, or the terms and conditions of this Contract, the Department may revoke agent status, as provided by statute, upon 90 days written notice to the Agent. The notice shall specify the reasons for revocation and the last day that the Agent will have agent status.
- C. **SUSPENSION.** If the Department finds that suspension of this Contract is necessary to protect the public's health or safety, the Department may immediately suspend this Contract upon notice to the Agent. The Agent may request a hearing on the suspension in writing, as provided in Wis. Admin. Code § 1.03 (3), including the information required in Wis. Admin. Code § ATCP 1.06. The Department shall hold a hearing, if requested by Agent, within 15 days after the Department receives the request, unless the Agent agrees to a different date. The suspension shall remain in effect until the final hearing decision is issued.
- D. **Reimbursement upon Termination or Revocation:**
 - 1) **Vending:** If this Contract is terminated or revoked, the Agent shall receive reimbursement for inspections of vending machines and vending machine commissaries performed under the Contract up to and including the date of termination or revocation.
 - 2) **Other Licenses:** If this Contract is terminated or revoked, the Agent shall reimburse the Department for the prorated amount, for the remainder of the fiscal year, of all license fees received by the Agent. The reimbursement shall be based on this formula: Days left in fiscal year/365 times the state license fees for all the establishments the Agent has licensed.

- E. Upon termination or revocation of this Contract, the Agent shall transfer all inspection and enforcement records to the Department.

Signed this _____ day of _____, 2016.

For De Pere Health Department:

Signature

Print Name

Print Title

Signed this _____ day of _____, 2016.

For the Department of Agriculture, Trade and Consumer Protection:

Steven C. Ingham, Administrator
Division of Food and Recreational Safety

City of De Pere, Wisconsin

**Request For Common Council Action**

MEETING DATE: October 4, 2016

DEPARTMENT: Human Resources

FROM: Shannon Metzler

SUBJECT: Confirmation of Appointment To Position of Health Officer/Director

ATTACHMENTS:

- Confirmation of Appt. Letter (Armbruster) (DOC)

Memo

City of De Pere

To: Members of the Common Council

From: Michael Walsh, Mayor

RE: Confirmation of Appointment To Position of Health Officer/Director

Date: October 4, 2016

The Human Resources Department has completed the recruitment and selection process for the Health Officer/Director position. Based on the interview panel's recommendation, I would like to appoint Deborah Armbruster to the position of Health Officer/Director. I am asking for your confirmation.

Deborah works for Brown County Health Department as a Maternal Child Nurse Manager and is currently serving as their Interim Health Director. As the Maternal Child Nurse Manager, Deborah assists in the management of the overall day-to-day operations and personnel of the Health Department. She develops, implements, and manages the Public Health Nursing Division and Public Health Programs. As the Interim Health Director for Brown County she provides general direction in the planning, coordination and evaluation of all department programs, services, and activities. Deborah received her Bachelor's Degree in Nursing from the University of Wisconsin-Green Bay.

Based on her background, we believe Deborah will be a tremendous asset to the De Pere community, and we are excited to have her on our team.

If you have any questions regarding this confirmation, I would ask that you contact me in advance of the meeting. I can be reached at 339-4040.

Thank you.

City of De Pere, Wisconsin**Request For Common Council Action**

MEETING DATE: October 4, 2016
DEPARTMENT: City Clerk-Treasurer
FROM: Shana Ledvina
SUBJECT: Voucher Approval.

ATTACHMENTS:

- 10-4-16 VOUCHERS (PDF)

PACKET: 05299 OCT 2016 COUNCIL - 1 10-4-16

19.a

VENDOR SET: 01

BANK : AP ASSOCIATED

VENDOR	NAME / I.D.	DESC	CHECK	CHECK	DISCOUNT	AMOUNT	CHECK	CHECK
			TYPE	DATE			NO#	AMOUNT
0302	AIRGAS USA LLC							
	I-9938375824	AIRGAS USA LLC	R	10/04/2016		299.15CR	079848	
	I-9938375825	AIRGAS USA LLC	R	10/04/2016		323.69CR	079848	
	I-9938375826	AIRGAS USA LLC	R	10/04/2016		97.00CR	079848	719.84
2507	AIS MARKETING INC.							
	I-11964	AIS MARKETING INC.	R	10/04/2016		18.00CR	079849	18.00
0007	AMBROSIUS SALES & SERVICE							
	I-105033	AMBROSIUS SALES & SERVICE	R	10/04/2016		39.20CR	079850	
	I-106136	AMBROSIUS SALES & SERVICE	R	10/04/2016		17.85CR	079850	
	I-106249	AMBROSIUS SALES & SERVICE	R	10/04/2016		44.92CR	079850	101.97
6022	APPLETON POST CRESCENT							
	I-10115337	APPLETON POST CRESCENT	R	10/04/2016		968.53CR	079851	968.53
0020	BADGERLAND PRINTING INC							
	I-28342	BADGERLAND PRINTING INC	R	10/04/2016		68.25CR	079852	68.25
0023	BATTERIES PLUS LLC							
	I-501-499687	BATTERIES PLUS LLC	R	10/04/2016		129.95CR	079853	
	I-501-500157	BATTERIES PLUS LLC	R	10/04/2016		23.95CR	079853	
	I-501-501207	BATTERIES PLUS LLC	R	10/04/2016		29.97CR	079853	183.87
0132	BAY AREA HUMANE SOCIETY AND							
	I-180	BAY AREA HUMANE SOCIETY AND	R	10/04/2016		414.00CR	079854	414.00
6404	BAY AREA TESTING & CONSULTING LLC							
	I-1248	BAY AREA TESTING & CONSULTING	R	10/04/2016		2,562.65CR	079855	
	I-1250	BAY AREA TESTING & CONSULTING	R	10/04/2016		993.70CR	079855	
	I-1251	BAY AREA TESTING & CONSULTING	R	10/04/2016		91.50CR	079855	
	I-1257	BAY AREA TESTING & CONSULTING	R	10/04/2016		1,137.60CR	079855	4,785.45
0027	BAY TOWEL INC							
	I-2240967	BAY TOWEL INC	R	10/04/2016		33.85CR	079856	
	I-2240968	BAY TOWEL INC	R	10/04/2016		79.54CR	079856	
	I-2243383	BAY TOWEL INC	R	10/04/2016		136.48CR	079856	
	I-2243404	BAY TOWEL INC	R	10/04/2016		60.13CR	079856	
	I-2245134	BAY TOWEL INC	R	10/04/2016		33.85CR	079856	
	I-2249302	BAY TOWEL INC	R	10/04/2016		39.28CR	079856	
	I-2251694	BAY TOWEL INC	R	10/04/2016		60.13CR	079856	443.26

Attachment: 10-4-16 VOUCHERS (5179 : Voucher Approval.)

PACKET: 05299 OCT 2016 COUNCIL - 1 10-4-16

19.a

VENDOR SET: 01

BANK : AP ASSOCIATED

VENDOR	NAME / I.D.	DESC	CHECK	CHECK	DISCOUNT	AMOUNT	CHECK	CHECK
			TYPE	DATE			NO#	AMOUNT
0034	BLINDAUER'S INC							
	I-4275	BLINDAUER'S INC	R	10/04/2016		120.00CR	079857	120.00
6673	BLUEMEL'S MAINTENANCE SERVICE, INC.							
	I-16-12 (1) FINAL	BLUEMEL'S MAINTENANCE SERVICE,	R	10/04/2016		34,862.50CR	079858	34,862.50
0038	BROADWAY AUTOMOTIVE INC							
	I-355696P	BROADWAY AUTOMOTIVE INC	R	10/04/2016		196.99CR	079859	
	I-355696PX1	BROADWAY AUTOMOTIVE INC	R	10/04/2016		196.99CR	079859	
	I-490390	BROADWAY AUTOMOTIVE INC	R	10/04/2016		1,493.73CR	079859	
	I-490658	BROADWAY AUTOMOTIVE INC	R	10/04/2016		32.06CR	079859	1,919.77
2984	BROWN COUNTY TREASURER							
	I-2016-00000129	BROWN COUNTY TREASURER	R	10/04/2016		1,054.39CR	079860	1,054.39
3478	BROWN COUNTY TREASURER							
	I-7 COTY	BROWN COUNTY TREASURER	R	10/04/2016		213.63CR	079861	213.63
6061	CARRICO AQUATIC RESOURCES INC							
	I-20163211	CARRICO AQUATIC RESOURCES INC	R	10/04/2016		337.79CR	079862	337.79
1	CHANDUPATLA, SHRUTHI							
	I-201609286412	REFUND	R	10/04/2016		20.00CR	079863	20.00
2708	CLEANING SOLUTION SERVICES INC							
	I-12133	CLEANING SOLUTION SERVICES INC	R	10/04/2016		122.12CR	079864	
	I-12167	CLEANING SOLUTION SERVICES INC	R	10/04/2016		1,416.56CR	079864	
	I-12169	CLEANING SOLUTION SERVICES INC	R	10/04/2016		1,105.24CR	079864	2,643.92
0812	COLORTECH OF WISCONSIN INC							
	I-7181	COLORTECH OF WISCONSIN INC	R	10/04/2016		245.00CR	079865	245.00
0217	COUNTRY VISIONS COOPERATIVE							
	I-201609286413	COUNTRY VISIONS COOPERATIVE	R	10/04/2016		26.48CR	079866	
	I-201609286414	COUNTRY VISIONS COOPERATIVE	R	10/04/2016		11.25CR	079866	
	I-201609286415	COUNTRY VISIONS COOPERATIVE	R	10/04/2016		60.31CR	079866	98.04
6700	DARLEY CO							
	I-17247679	DARLEY CO	R	10/04/2016		4,045.87CR	079867	4,045.87
0713	DE GROOT INC							
	I-7679	DE GROOT INC	R	10/04/2016		1,639.63CR	079868	1,639.63

Attachment: 10-4-16 VOUCHERS (5179 : Voucher Approval.)

PACKET: 05299 OCT 2016 COUNCIL - 1 10-4-16

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VENDOR SET: 01

BANK : AP ASSOCIATED

VENDOR	NAME / I.D.	DESC	CHECK	CHECK	DISCOUNT	AMOUNT	CHECK	CHECK
			TYPE	DATE			NO#	AMOUNT
2077	DE PERE EXHAUST							
	I-43322	DE PERE EXHAUST	R	10/04/2016		149.78CR	079869	149.78
6946	DEAN ENTERPRISES LLC							
	I-D-44721	DEAN ENTERPRISES LLC	R	10/04/2016		102.25CR	079870	102.25
3212	DIXON ENGINEERING INC							
	I-16-1015	DIXON ENGINEERING INC	R	10/04/2016		1,350.00CR	079871	1,350.00
0085	EMERGENCY MEDICAL PRODUCTS INC							
	I-1851760	EMERGENCY MEDICAL PRODUCTS INC	R	10/04/2016		176.59CR	079872	
	I-1852696	EMERGENCY MEDICAL PRODUCTS INC	R	10/04/2016		307.79CR	079872	484.38
6859	EMS MEDICAL BILLING ASSOC LLC							
	I-201609286416	EMS MEDICAL BILLING ASSOC LLC	R	10/04/2016		4,639.89CR	079873	4,639.89
5173	FIRE RESCUE SUPPLY LLC							
	I-6721	FIRE RESCUE SUPPLY LLC	R	10/04/2016		845.00CR	079874	845.00
3303	FIRST AMERICAN TITLE INS COMPANY							
	I-201609286417	FIRST AMERICAN TITLE INS COMPA	R	10/04/2016		471.00CR	079875	471.00
0200	FIRST SUPPLY LLC							
	I-10151703-00	FIRST SUPPLY LLC	R	10/04/2016		390.00CR	079876	
	I-10169491-00	FIRST SUPPLY LLC	R	10/04/2016		24.89CR	079876	
	I-10171952-00	FIRST SUPPLY LLC	R	10/04/2016		28.50CR	079876	
	I-10173990-00	FIRST SUPPLY LLC	R	10/04/2016		24.36CR	079876	467.75
7289	KIMBERLY FLOM							
	I-201609286418	KIMBERLY FLOM	R	10/04/2016		192.45CR	079877	192.45
1068	FOX VALLEY TRUCK & BODY INC							
	I-RO #048469	FOX VALLEY TRUCK & BODY INC	R	10/04/2016		4,358.97CR	079878	4,358.97
0562	GALLS LLC							
	I-5998343	GALLS LLC	R	10/04/2016		209.45CR	079879	
	I-6042436	GALLS LLC	R	10/04/2016		304.53CR	079879	513.98
6084	GANNETT WI MEDIA							
	I-201609286419	GANNETT WI MEDIA	R	10/04/2016		411.99CR	079880	411.99
2544	GLOBAL RECOGNITION INC							
	I-159858	GLOBAL RECOGNITION INC	R	10/04/2016		6.00CR	079881	6.00

Attachment: 10-4-16 VOUCHERS (5179 : Voucher Approval.)

PACKET: 05299 OCT 2016 COUNCIL - 1 10-4-16

19.a

VENDOR SET: 01

BANK : AP ASSOCIATED

VENDOR	NAME / I.D.	DESC	CHECK	CHECK	DISCOUNT	AMOUNT	CHECK	CHECK
			TYPE	DATE			NO#	AMOUNT
0117	GRAYBAR ELECTRIC COMPANY INC							
	I-987048978	GRAYBAR ELECTRIC COMPANY INC	R	10/04/2016		0.96CR	079882	
	I-987297898	GRAYBAR ELECTRIC COMPANY INC	R	10/04/2016		9.16CR	079882	10.12
1	HARKOFF, ERIC & ZOE							
	I-201609286420	MAILBOX	R	10/04/2016		52.46CR	079883	52.46
0446	HAWKINS INC							
	I-3945081 RI	HAWKINS INC	R	10/04/2016		5,281.16CR	079884	5,281.16
3521	HD SUPPLY WATERWORKS LTD							
	I-G112640	HD SUPPLY WATERWORKS LTD	R	10/04/2016		188.10CR	079885	
	I-G133417	HD SUPPLY WATERWORKS LTD	R	10/04/2016		907.64CR	079885	
	I-G160346	HD SUPPLY WATERWORKS LTD	R	10/04/2016		291.18CR	079885	1,386.92
5674	HOME TEAM SPORTS & APPAREL INC							
	I-27787	HOME TEAM SPORTS & APPAREL INC	R	10/04/2016		1,251.50CR	079886	1,251.50
5484	HYDROCORP INC							
	I-40252-IN	HYDROCORP INC	R	10/04/2016		1,710.00CR	079887	1,710.00
1399	INDOFF INC							
	C-2849789	INDOFF INC	R	10/04/2016		87.13	079888	
	I-2845950	INDOFF INC	R	10/04/2016		252.87CR	079888	
	I-2849414	INDOFF INC	R	10/04/2016		123.13CR	079888	
	I-2851993	INDOFF INC	R	10/04/2016		33.96CR	079888	
	I-2854033	INDOFF INC	R	10/04/2016		3.99CR	079888	
	I-2854070	INDOFF INC	R	10/04/2016		89.23CR	079888	
	I-2855602	INDOFF INC	R	10/04/2016		13.30CR	079888	
	I-2855972	INDOFF INC	R	10/04/2016		11.48CR	079888	
	I-2856190	INDOFF INC	R	10/04/2016		44.03CR	079888	
	I-2858630	INDOFF INC	R	10/04/2016		31.87CR	079888	516.73
2602	JOSSART BROTHERS INC							
	I-106	JOSSART BROTHERS INC	R	10/04/2016		2,004.50CR	079889	
	I-9-376	JOSSART BROTHERS INC	R	10/04/2016		781.25CR	079889	2,785.75
1276	JX ENTERPRISES INC							
	I-D-262560008	JX ENTERPRISES INC	R	10/04/2016		52.49CR	079890	
	I-D-262570024	JX ENTERPRISES INC	R	10/04/2016		12.07CR	079890	64.56
7269	K KELLY INC							
	I-HS-7798	K KELLY INC	R	10/04/2016		115.50CR	079891	115.50

Attachment: 10-4-16 VOUCHERS (5179 : Voucher Approval.)

PACKET: 05299 OCT 2016 COUNCIL - 1 10-4-16

19.a

VENDOR SET: 01

BANK : AP ASSOCIATED

VENDOR	NAME / I.D.	DESC	CHECK	CHECK	DISCOUNT	AMOUNT	CHECK	CHECK
			TYPE	DATE			NO#	AMOUNT
0153	LAFORCE INC							
	I-1009422	LAFORCE INC	R	10/04/2016		117.77CR	079892	117.77
7082	LEE RECREATION LLC							
	I-10854-16	LEE RECREATION LLC	R	10/04/2016		2,760.00CR	079893	2,760.00
0159	LEXIS NEXIS INC							
	I-3090666544	LEXIS NEXIS INC	R	10/04/2016		214.00CR	079894	214.00
0160	LIZER OF WI INC							
	I-66016AD	LIZER OF WI INC	R	10/04/2016		110.00CR	079895	
	I-66017AD	LIZER OF WI INC	R	10/04/2016		110.00CR	079895	220.00
0173	MENARDS INC							
	C-92837	MENARDS INC	R	10/04/2016		9.98	079896	
	I-91231	MENARDS INC	R	10/04/2016		149.56CR	079896	
	I-91435	MENARDS INC	R	10/04/2016		65.52CR	079896	
	I-91691	MENARDS INC	R	10/04/2016		174.99CR	079896	
	I-92053	MENARDS INC	R	10/04/2016		83.37CR	079896	
	I-92436	MENARDS INC	R	10/04/2016		120.44CR	079896	
	I-92485	MENARDS INC	R	10/04/2016		10.32CR	079896	
	I-92688	MENARDS INC	R	10/04/2016		45.92CR	079896	
	I-92722	MENARDS INC	R	10/04/2016		30.47CR	079896	
	I-97297	MENARDS INC	R	10/04/2016		29.48CR	079896	700.09
1630	BRIAN MITCHELL							
	I-1354	BRIAN MITCHELL	R	10/04/2016		37.00CR	079897	37.00
5552	NFPA							
	I-201609286421	NFPA	R	10/04/2016		175.00CR	079898	175.00
3191	NIELSON COMMUNICATIONS INC							
	I-AT10778	NIELSON COMMUNICATIONS INC	R	10/04/2016		49.90CR	079899	
	I-AT10824	NIELSON COMMUNICATIONS INC	R	10/04/2016		49.90CR	079899	99.80
0531	NORTHEAST AUTO PARTS INC							
	I-314686	NORTHEAST AUTO PARTS INC	R	10/04/2016		5.29CR	079900	
	I-314696	NORTHEAST AUTO PARTS INC	R	10/04/2016		26.49CR	079900	
	I-314706	NORTHEAST AUTO PARTS INC	R	10/04/2016		64.96CR	079900	
	I-314732	NORTHEAST AUTO PARTS INC	R	10/04/2016		42.54CR	079900	
	I-314866	NORTHEAST AUTO PARTS INC	R	10/04/2016		13.09CR	079900	
	I-314877	NORTHEAST AUTO PARTS INC	R	10/04/2016		39.48CR	079900	
	I-314898	NORTHEAST AUTO PARTS INC	R	10/04/2016		8.36CR	079900	
	I-314944	NORTHEAST AUTO PARTS INC	R	10/04/2016		16.69CR	079900	
	I-315017	NORTHEAST AUTO PARTS INC	R	10/04/2016		25.16CR	079900	
	I-315053	NORTHEAST AUTO PARTS INC	R	10/04/2016		238.17CR	079900	480.23

Attachment: 10-4-16 VOUCHERS (5179 : Voucher Approval.)

PACKET: 05299 OCT 2016 COUNCIL - 1 10-4-16

19.a

VENDOR SET: 01

BANK : AP ASSOCIATED

VENDOR	NAME / I.D.	DESC	CHECK	CHECK	DISCOUNT	AMOUNT	CHECK	CHECK
			TYPE	DATE			NO#	AMOUNT
0255	ONE LAW GROUP SC							
	I-406-01M (248)	ONE LAW GROUP SC	R	10/04/2016		855.00CR	079901	
	I-406-05M (2)	ONE LAW GROUP SC	R	10/04/2016		162.00CR	079901	1,017.00
1020	OVERHEAD DOOR CO OF GREEN BAY							
	I-BAY2177374	OVERHEAD DOOR CO OF GREEN BAY	R	10/04/2016		619.44CR	079902	619.44
7355	OXFORD IMMUNOTEC							
	I-463451	OXFORD IMMUNOTEC	R	10/04/2016		52.75CR	079903	52.75
0197	PACKER CITY INTERNATIONAL INC							
	I-X101051110:01	PACKER CITY INTERNATIONAL INC	R	10/04/2016		69.95CR	079904	
	I-X101051752:01	PACKER CITY INTERNATIONAL INC	R	10/04/2016		52.44CR	079904	122.39
0198	PACKERLAND GLASS PRODUCTS INC							
	I-58786	PACKERLAND GLASS PRODUCTS INC	R	10/04/2016		116.00CR	079905	116.00
1826	PAULSON HARDWARE INC							
	I-145261	PAULSON HARDWARE INC	R	10/04/2016		4.99CR	079906	4.99
3401	PETERS CONCRETE COMPANY INC							
	I-16-14 (3)	PETERS CONCRETE COMPANY INC	R	10/04/2016		88,803.50CR	079907	88,803.50
3202	PHYSIO-CONTROL INC							
	I-116143604	PHYSIO-CONTROL INC	R	10/04/2016		29,398.18CR	079908	29,398.18
6126	PM SUPPLY - WRIGHT INDUSTRIAL							
	I-67032	PM SUPPLY - WRIGHT INDUSTRIAL	R	10/04/2016		470.00CR	079909	
	I-67412	PM SUPPLY - WRIGHT INDUSTRIAL	R	10/04/2016		246.69CR	079909	716.69
0208	POMP'S TIRE SERVICE INC							
	C-10521703	POMP'S TIRE SERVICE INC	R	10/04/2016		120.00	079910	
	I-1010042172	POMP'S TIRE SERVICE INC	R	10/04/2016		790.00CR	079910	
	I-1010042418	POMP'S TIRE SERVICE INC	R	10/04/2016		790.00CR	079910	1,460.00
1701	PRAXAIR DISTRIBUTION INC							
	I-74304718	PRAXAIR DISTRIBUTION INC	R	10/04/2016		20.23CR	079911	20.23
0395	PRO ONE JANITORIAL INC							
	I-115097	PRO ONE JANITORIAL INC	R	10/04/2016		979.00CR	079912	979.00
6948	RAY'S TIRE							
	I-3-39245	RAY'S TIRE	R	10/04/2016		1,506.96CR	079913	
	I-3-39401	RAY'S TIRE	R	10/04/2016		1,392.59CR	079913	2,899.55

Attachment: 10-4-16 VOUCHERS (5179 : Voucher Approval.)

PACKET: 05299 OCT 2016 COUNCIL - 1 10-4-16

19.a

VENDOR SET: 01

BANK : AP ASSOCIATED

VENDOR	NAME / I.D.	DESC	CHECK	CHECK	DISCOUNT	AMOUNT	CHECK	CHECK
			TYPE	DATE			NO#	AMOUNT
5393	RICOH USA INC.							
	I-9017881336	RICOH USA INC.	R	10/04/2016		1,230.74CR	079914	1,230.74
6380	ROCK OIL REFINING INC							
	I-255012	ROCK OIL REFINING INC	R	10/04/2016		100.00CR	079915	
	I-255247	ROCK OIL REFINING INC	R	10/04/2016		50.00CR	079915	150.00
0235	SAINT VINCENT HOSPITAL							
	I-44178	SAINT VINCENT HOSPITAL	R	10/04/2016		214.90CR	079916	214.90
4875	SANOFI PASTEUR							
	I-906899717	SANOFI PASTEUR	R	10/04/2016		365.11CR	079917	365.11
0248	SHOPKO STORES OPERATING CO LLC							
	I-201609286422	SHOPKO STORES OPERATING CO LLC	R	10/04/2016		20.46CR	079918	20.46
0252	SOUTHSIDE TIRE CO INC							
	I-3055790	SOUTHSIDE TIRE CO INC	R	10/04/2016		2,410.96CR	079919	
	I-3056033	SOUTHSIDE TIRE CO INC	R	10/04/2016		129.53CR	079919	2,540.49
4094	STATE BAR OF WISCONSIN							
	I-5011659	STATE BAR OF WISCONSIN	R	10/04/2016		112.50CR	079920	
	I-5012184	STATE BAR OF WISCONSIN	R	10/04/2016		25.63CR	079920	138.13
1	THIRY, DEBRA							
	I-201609286423	REFUND	R	10/04/2016		20.00CR	079921	20.00
4842	THOMSON REUTERS							
	I-834719685	THOMSON REUTERS	R	10/04/2016		426.57CR	079922	426.57
0415	TRI CITY GLASS INC							
	I-I04-0825-55048	TRI CITY GLASS INC	R	10/04/2016		131.88CR	079923	131.88
6900	TURRIFF PLUMBING INC.							
	I-8379	TURRIFF PLUMBING INC.	R	10/04/2016		5,937.80CR	079924	5,937.80
0417	TWEET GAROT MECHANICAL INC							
	I-35974	TWEET GAROT MECHANICAL INC	R	10/04/2016		429.00CR	079925	
	I-35978	TWEET GAROT MECHANICAL INC	R	10/04/2016		998.75CR	079925	1,427.75
0416	TWIRL SEWER SERVICE							
	I-201609286424	TWIRL SEWER SERVICE	R	10/04/2016		145.00CR	079926	145.00

Attachment: 10-4-16 VOUCHERS (5179 : Voucher Approval.)

PACKET: 05299 OCT 2016 COUNCIL - 1 10-4-16

19.a

VENDOR SET: 01

BANK : AP ASSOCIATED

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
0277	VAN'S FIRE & SAFETY INC							
	I-4089726	VAN'S FIRE & SAFETY INC	R	10/04/2016		75.35CR	079927	
	I-4090125	VAN'S FIRE & SAFETY INC	R	10/04/2016		52.30CR	079927	127.65
7210	VANDEN PLAS SANITATION INC.							
	I-30445	VANDEN PLAS SANITATION INC.	R	10/04/2016		120.00CR	079928	120.00
2388	VANSTRATEN SAND & GRAVEL INC							
	I-201609286425	VANSTRATEN SAND & GRAVEL INC	R	10/04/2016		13.00CR	079929	13.00
7396	VIERBICHER ASSOCIATES INC							
	I-6	VIERBICHER ASSOCIATES INC	R	10/04/2016		3,937.50CR	079930	3,937.50
3707	VIKING ELECTRIC SUPPLY							
	I-1733484	VIKING ELECTRIC SUPPLY	R	10/04/2016		37.64CR	079931	37.64
6469	WI DOCUMENT IMAGING							
	I-71256	WI DOCUMENT IMAGING	R	10/04/2016		115.85CR	079932	115.85
1181	WI PARK AND RECREATION ASSOC							
	I-201609286427	WI PARK AND RECREATION ASSOC	R	10/04/2016		300.00CR	079933	
	I-201609286428	WI PARK AND RECREATION ASSOC	R	10/04/2016		300.00CR	079933	600.00
6015	WIAA							
	I-201609286426	WIAA	R	10/04/2016		91.00CR	079934	91.00
1210	WIL KIL PEST CONTROL							
	I-2991968	WIL KIL PEST CONTROL	R	10/04/2016		107.50CR	079935	
	I-3006585	WIL KIL PEST CONTROL	R	10/04/2016		110.00CR	079935	217.50
5588	WINS							
	I-1590	WINS	R	10/04/2016		32.50CR	079936	32.50
7475	WOOD SEWER & EXCAVATING INC							
	I-16-07 (1)	WOOD SEWER & EXCAVATING INC	R	10/04/2016		304,033.12CR	079937	304,033.12

* * T O T A L S * *	NO#	DISCOUNTS	CHECK AMT	TOTAL APPLIED
REGULAR CHECKS:	90	0.00	535,160.05	535,160.05
HANDWRITTEN CHECKS:	0	0.00	0.00	0.00
PRE-WRITE CHECKS:	0	0.00	0.00	0.00
DRAFTS:	0	0.00	0.00	0.00
VOID CHECKS:	0	0.00	0.00	0.00
NON CHECKS:	0	0.00	0.00	0.00
CORRECTIONS:	0	0.00	0.00	0.00
REGISTER TOTALS:	90	0.00	535,160.05	535,160.05

TOTAL ERRORS: 0 TOTAL WARNINGS: 0

Attachment: 10-4-16 VOUCHERS (5179 : Voucher Approval.)

PACKET: 05299 OCT 2016 COUNCIL - 1 10-4-16

VENDOR SET: 01

BANK : AP ASSOCIATED

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
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** POSTING PERIOD RECAP **

FUND	PERIOD	AMOUNT

100	10/2016	71,502.32CR
201	10/2016	230.56CR
210	10/2016	3,937.50CR
235	10/2016	245.00CR
290	10/2016	471.00CR
405	10/2016	432,484.57CR
415	10/2016	8,697.80CR
601	10/2016	14,914.36CR
650	10/2016	2,676.94CR
=====		
ALL		535,160.05CR

Attachment: 10-4-16 VOUCHERS (5179 : Voucher Approval.)

City of De Pere, Wisconsin**Request For Common Council Action**

MEETING DATE: October 4, 2016
DEPARTMENT: City Clerk-Treasurer
FROM: Shana Ledvina
SUBJECT: Operator License Applications.

ATTACHMENTS:

- 10-04-2016 (PDF)

CITY OF DE PERE - October 4, 2016

ITEM	NAME	ADDRESS	CITY	ST	ZIP
Previously Tabled Operator Licenses					
1	HENDRICKS, RICHARD L.	617 BIRCH ST	DE PERE	WI	54115
2	PHILLIPS, JOSEPH K.	3201 GLENDALE AV	GREEN BAY	WI	54313
3	STREGE, STEFANIE S.	159 KENNEY ST	GREEN BAY	WI	54301
4	TOWLE, KATHERINE A.	536 N. HENRY	GREEN BAY	WI	54302

New Operator License Applications for the 2016-2018 Licensing Period					
1	BOROWSKI, AMY L.	1410 PORLIER ST	GREEN BAY	WI	54301
2	BURROWS, MELISSA S.	2281 SAMANTHA ST #118	DE PERE	WI	54115
3	CAYO, CRAIG S.	1619 E. GLENDALE	APPLETON	WI	54911
4	DE CLEENE, STEVEN L.	1334 SCHEURING RD #1	DE PERE	WI	54115
5	DINY, EMILY C.	1879 PARTRIDGE RD	DE PERE	WI	54115
6	DUSHA, RENEE C.	2435 SYCAMORE DR #5	GREEN BAY	WI	54311
7	EARNEY, REGAN J.	948 GREEN RIDGE DR	DE PERE	WI	54115
8	FIRKUS, REBECCA A.	100 GRANT ST #558	DE PERE	WI	54115
9	FOX, YOLANDA M.	1337 S. NORWOOD	GREEN BAY	WI	54304
10	FRYE, TYLER R.	625 REID ST	DE PERE	WI	54115
11	JANSSEN, ELLEN A.	255 N. 10TH ST #215	DE PERE	WI	54115
12	JOHNSON, PAUL A.	2031 ZEISE AV	GREEN BAY	WI	54302
13	KAFKA, MOLLY C.	1120 ORLANDO DR	DE PERE	WI	54115
14	KITSON, MAKAYLA S.M.	1368 WEISE ST	GREEN BAY	WI	54302
15	KNAPP, KATIE M.	1581 CYPRESS RD #3	DE PERE	WI	54115
16	MC NULTY-KRAMER, KIM M.	2467 KIMBERLY ST	GREEN BAY	WI	54313
17	MULHERN, SCOTT P.	665 A FOXVIEW AV	DE PERE	WI	54115
18	PERROTTE, ZACHARY E.	1004 HENNES CT	KAUKAUNA	WI	54130
19	PHILLIPS, BRYANT J.	605 DORELLE ST	KEWAUNEE	WI	54216
20	POLEY, BENJAMIN P.	220 FORT HOWARD AV	DE PERE	WI	54115
21	RADANT, TYLER R.	850 SWAN RD	DE PERE	WI	54115
22	RHODE, ANGELA L.	1736 KEEHAN LN	GREEN BAY	WI	54311
23	ROSNER, COREY W.	2680 HE NIS RA LN	GREEN BAY	WI	54304
24	RYDER, MARISSA J.	1268 SCHEURING RD #9	DE PERE	WI	54115
25	STIEGLITZ-VAN VONDEREN, SADIE B.	525 S. HURON RD	GREEN BAY	WI	54311
26	THOMPSON, CASSIE J.	707 PINE ST	DE PERE	WI	54115
27	TINGLE, JENNIFER L.	240 1/2 FRANK ST	OCONTO	WI	54153
28	TRAINOR, PATRICK D.	2564 STONE MEADOW TR #12	GREEN BAY	WI	54313
29	VANDER LOOP, ANTHONY R.	1221 KLAUS ST	GREEN BAY	WI	54302
30	WATTS, ELIZABETH M.	904 CLEMENT #3	GREEN BAY	WI	54302
31	WEBER, KATRINA S.	413 N LINCOLN ST	ELKHORN	WI	53121
32	ZEAMER, TINA M.	3384 SCHOOL RD	DE PERE	WI	54115

Attachment: 10-04-2016 (5166 : Operator License Applications.)