

**Comments/Questions:**

Hi Alderperson Schultz,

I have a number of questions regarding the bird-friendly glass resolution.

1. How many birds die annually in the city of Appleton due to colliding with glass windows? The resolution states up to a billion birds die annually, but I would assume those are not evenly spread out but are rather disproportionately concentrated in cities like New York and Chicago that have many skyscrapers.
2. What species of birds are dying in Appleton due to striking glass windows?
3. The resolution would "compel non-public entities, businesses and urban residential housing managers and owners whose existing buildings have glass panes which meet the bird-strike risk criteria" to put educational language on their websites which raises several questions:
  - 3a. What are the specifics of the "bird strike risk criteria"? This resolution uses the Madison ordinance as an example, but it's not clear if you intend to just use that language for Appleton or if you are creating your own language.
  - 3b. What specific educational language would these private businesses be required to place on their websites?
  - 3c. What state or federal statute is the resolution relying on in order to compel private individuals and businesses to disseminate government mandated messages?
4. What are the estimated costs associated with retrofitting all city owned windows that pose a safety issue for birds with bird-friendly glass or alternatives by 2025? Additionally, how many windows are estimated to need to be retrofitted?
5. Will these retrofitted windows and treatments result in increased ongoing maintenance costs to the city?
6. How will these ordinance changes impact currently planned projects that have not yet started construction, such as the library, the Fox Commons development, and various housing developments planned for downtown?

7. Will these proposed changes impact or increase the cost of building affordable housing developments in Appleton?
8. Will this proposed ordinance impact the way developers view building something in Appleton? Will it make the city appear more friendly to new development or less so?
9. What percentage of new development in the city would be expected to have to install bird-friendly glass?
10. Have the alderpersons who submitted the resolution or city staff conducted a cost/benefit analysis comparing the increased cost of development caused by this resolution to the number and species of birds that would potentially be saved?
11. Are there any situations in which this proposed ordinance would affect 1 and 2 family residential properties?

Thanks,

Jessica Anderson  
All Things Appleton

## FW: Appleton, WI: Contact Us email from website



Chris Behrens <Chris.Behrens@Appleton.org>

7/6/2023 12:54 PM

To: Jessica Anderson Cc: Jamie Griesbach

Hello Jessica,

Staff from several City departments are currently reviewing the Bird Safe Glass resolution and will be meeting next week to further discuss it internally. The City of Madison's ordinance has been challenged and is currently at the Court of Appeals level (Associated Builders & Contractors of Wisconsin, Inc. v. City of Madison Case No. 2022AP001468). Oral argument was held in April but a decision hasn't been released as of today's date. I did make one of the resolution's authors aware of this pending matter back in January when the idea was first broached with my office and suggested waiting to submit a resolution until the courts had resolved the matter. While a resolution has now been introduced, I will continue to recommend the Council refrain from taking action on the resolution until there is some direction via a Court of Appeals decision or possibly a Supreme Court decision if the appellate court decision is further appealed.

With the above as a background, to the extent I can at this point, I'll try to address your questions. If the Madison ordinance survives its legal challenge, and the Appleton Common Council approves adopting a bird safe glass ordinance in concept, I would expect that Madison's ordinance would then be used as a template with only minor modifications for the Council's subsequent consideration/approval. As with all resolutions and ordinances, it is up to the legislative body (Council) to specify their intent. As I read the resolution, my understanding is that the authors want the City's website (not private businesses') to contain language regarding requirements of using bird safe glass and possibly some educational messaging. This intent of the authors, details of messaging, etc. will need to be discerned at a future point in time as this resolution moves forward and will require further discussion if my understanding of the authors' intent is incorrect.

Thanks for your interest in this resolution.

Chris  
Christopher R. Behrens  
City Attorney  
City of Appleton

## Re: FW: Appleton, WI: Contact Us email from website



admin@allthingsappleton.com <admin@allthingsappleton.com>

7/7/2023 6:04 PM

To: Chris Behrens Cc: Jamie Griesbach

Hi Attorney Behrens,

Thank you for your response. I appreciate you taking the time to answer my questions and provide some background on the resolution.

I have one further question I would like to ask for the sake of clarification regarding the second BE IT RESOLVED clause.

The clause seems to have two parts. The first part reads “BE IT FURTHER RESOLVED, that the City of Appleton include educational language on its website to inform” which seems pretty straightforward in that it would result in the city posting educational information about bird window strikes on its website.

The second part reads, “and compel non-public entities, businesses and urban residential housing managers and owners whose existing buildings have glass panes which meet the bird-strike risk criteria, to do the same.” I don’t understand how to interpret that other than that the city would be compelling private businesses to post the same educational information on their websites as the city would be posting on its website.

I’ve read and reread that clause multiple times since the resolution was first introduced, and I don’t see how else to interpret what it is saying. What is the word “compel” referring to in this clause? And are you absolutely positive the passage of that clause as written would not compel private entities to post educational materials on their websites?

Thanks,

Jessica Anderson  
All Things Appleton

**From:** Mayor  
**Sent:** Monday, July 10, 2023 3:01 PM  
**To:** Jessica Anderson  
**Cc:** Anindita N. Anaam; Mary L. Roberts  
**Subject:** RE: Appleton, WI: Contact Us email from website

Dear Jessica,

Below are my responses to your questions. Please note that this item is currently undergoing review and analysis is not yet completed.

Jake

**Jacob A. Woodford - Mayor**  
City of Appleton, WI  
[920-832-6400](tel:920-832-6400)  
[www.appleton.org](http://www.appleton.org)

#### **Comments/Questions**

Hi Mayor Woodford,

I have a number of questions regarding the bird-friendly glass resolution. At this point, the resolution has been with city staff for a month, so I'm hoping that at least some of these questions can be answered at this point, and I do appreciate your time.

1. How many birds die annually in the city of Appleton due to colliding with glass windows? The resolution states up to a billion birds die annually, but I would assume those are not evenly spread out but are rather disproportionately concentrated in cities like New York and Chicago that have many skyscrapers.

**I am not aware of any data that has been collected locally on this issue. The City of Appleton does not have any data on this issue one way or another.**

2. What species of birds are dying in Appleton due to striking glass windows?

**See response to question one, above.**

3. The resolution would "compel non-public entities, businesses and urban residential housing managers and owners whose existing buildings have glass panes which meet the bird-strike risk criteria" to put educational language on their websites which raises several questions:

**Review is ongoing.**

3a. What are the specifics of the "bird strike risk criteria"? This resolution uses the Madison ordinance as an example, but it's not clear if you intend to just use that language for Appleton or if you are creating your own language.

**I cannot answer this question as I am not an author or sponsor of the Resolution.**

3b. What specific educational language would these private businesses be required to place on their websites?

**Review is ongoing, and final ordinance language would have to be created should the item move forward.**

3c. What state or federal statute is the resolution relying on in order to compel private individuals and businesses to disseminate government mandated messages?

Review is ongoing, though I do not believe the Resolution cited specific statutes on this matter.

4. What are the estimated costs associated with retrofitting all city owned windows that pose a safety issue for birds with bird-friendly glass or alternatives by 2025? Additionally, how many windows are estimated to need to be retrofitted?

Review is ongoing, however, in the interest of protecting staff time, we will not conduct a detailed analysis to determine this figure unless the Council passes a Resolution compelling it.

5. Will these retrofitted windows and treatments result in increased ongoing maintenance costs to the city?

See answer to question 4.

6. How will these ordinance changes impact currently planned projects that have not yet started construction, such as the library, the Fox Commons development, and various housing developments planned for downtown?

Review is ongoing, though we are not presently changing plans on a speculative basis. We will adjust course as required by Council action.

7. Will these proposed changes impact or increase the cost of building affordable housing developments in Appleton?

Review is ongoing, though from our analysis of potential approaches for the Library project, it did seem that certain interventions would have increased construction costs. In the case of the Library, we reduced the total glazed area on the façade and our architect designed the glazed area in a way to reduce environmental impact, including potential for bird strikes.

8. Will this proposed ordinance impact the way developers view building something in Appleton? Will it make the city appear more friendly to new development or less so?

I suggest this question be put to the authors and/or area developers for their feedback.

9. What percentage of new development in the city would be expected to have to install bird-friendly glass?

Review is ongoing.

10. Have the alderpersons who submitted the resolution or city staff conducted a cost/benefit analysis comparing the increased cost of development caused by this resolution to the number and species of birds that would potentially be saved?

I am not aware of any such analysis, nor, in the spirit of my response to question 4, do I intend to direct staff to conduct such an analysis.

11. Are there any situations in which this proposed ordinance would affect 1 and 2 family residential properties?

Review is ongoing.

I look forward to learning the answers to these questions, and, once again, I appreciate your time.

Thanks,

Jessica Anderson  
All Things Appleton

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## RE: FW: Appleton, WI: Contact Us email from website



Chris Behrens <Chris.Behrens@Appleton.org>

7/11/2023 9:45 AM



To: Jessica Anderson Cc: Jamie Griesbach

Hi Jessica,

I spoke with Ald. Schultz after last night's Park and Rec meeting. He agreed that "compel" was too strong of a word and suggested it should have been more along the lines of a recommendation. He and the other authors can best address their intent behind the resolution and objectives should this legislation move forward. I shared with him that my advice will be to refrain from taking any action until there is a final decision from the courts regarding the legality of the Madison ordinance.

Thanks,

Chris

Christopher R. Behrens

City Attorney

City of Appleton

100 N. Appleton Street

Appleton WI 54911

## RE: Appleton, WI: Contact Us email from website



Jessica Menn Anderson <admin@allthingsappleton.com>

7/12/2023 7:46 AM

To: Mayor Cc: Anindita N. Anaam; Mary L. Roberts

Hi Mayor Woodford,

Thank you for taking the time to respond and answer those questions.

When is this resolution expected to come before a committee and what committee will it be coming before?

I have reached out to the alderpersons who submitted the resolution and am still waiting to hear back from them, and I do agree that some of these questions would be better answered by them directly, though I did think there was value in running them past you as well.

I do have one follow up question. You said that you didn't intend to have staff conduct a cost benefit analysis on the number/type of birds potentially saved versus the increased cost of development, and you also suggested that my question about whether this resolution would make Appleton a more or less desirable place for developers to build would be better put to the resolution sponsors or local developers. Is staff not going to conduct any kind of cost/benefit analysis on this resolution to determine if it will negatively impact the quantity, quality, or type of future development? Presentations have been given by staff members to committees on the need to spur new development in the city as well as the difficulties of doing that as an older city with established boundaries and not a lot of greenfield. Additionally, there have been presentations and discussions about the need for more housing in general and the need for more affordable housing in particular. I believe something was also mentioned recently about the economy being such that TIF incentives being necessary for developers to build affordable housing.

Now, a resolution has been put forward that would potentially increase the cost of development and make it more onerous to build in Appleton, but a basic cost benefit analysis on how many birds will be saved versus how this resolution will impact the ongoing development goals and tax-revenue raising of the city is not going to be conducted? Why not?

Thanks,

Jessica Anderson  
All Things Appleton

## RE: RE: Appleton, WI: Contact Us email from website



Mayor <Mayor@Appleton.org>

7/12/2023 12:08 PM



To: Jessica Anderson Cc: Anindita N. Anaam; Mary L. Roberts

Dear Jessica,

I appreciate the opportunity to answer your questions. Regarding not conducting a cost-benefit analysis – I simply mean we are not going to conduct a detailed analysis on a matter where the end result from a cost perspective can be reasonably intuited, nor where gathering data about the number of bird strikes on glass is beyond the scope and capacity of our in-house staff. If the Council were to direct it and appropriate the funds to commission a study with a consultant/firm, we would do so.

It seems you might be answering part of your own question in referencing past presentations and discussions we have had regarding the intense need for new, particularly affordable, housing and the limited tools we have to support such development as it is.

All of your questions are relevant to the legislative process, which is the purview of the Council when they take up the Resolution. Staff is conducting cursory analysis and will provide insights to the committee when I refer it. I do not have a date-certain or an estimate for when that will occur.

Sincerely,

Jake



**From:** Alex Schultz  
**Sent:** Thursday, July 13, 2023 8:42 AM  
**To:** Jessica Anderson  
**Subject:** Answers to questions

1. How many birds die annually in the city of Appleton due to colliding with glass windows? The resolution states up to a billion birds die annually, but I would assume those are not evenly spread out but are rather disproportionately concentrated in cities like New York and Chicago that have many skyscrapers.

We do not have any direct data to share for Appleton. The best we can do is make inferences based on number of buildings and total area of glass panes that meet the criteria. It would be safe to estimate several hundreds to several thousand.

2. What species of birds are dying in Appleton due to striking glass windows? Every avian species is subject to the disorientation of window reflections, though the primary victims of fatal collisions are smaller migratory songbirds.

3. The resolution would "compel non-public entities, businesses and urban residential housing managers and owners whose existing buildings have glass panes which meet the bird-strike risk criteria" to put educational language on their websites which raises several questions: This language will be revised to read differently that it does now, replacing "compel" with "encourage" is the likely word revision.

3a. What are the specifics of the "bird strike risk criteria"? This resolution uses the Madison ordinance as an example, but it's not clear if you intend to just use that language for Appleton or if you are creating your own language. A lot of work went into the Madison ordinance, so we'll adopt what makes sense to and revise what doesn't to fit our community and urban environment.

3b. What specific educational language would these private businesses be required to place on their websites? Again, there will be no "requirement" but rather a recommendation to share info. This is one example of info share that we could share with businesses and residents alike,.

3c. What state or federal statute is the resolution relying on in order to compel private individuals and businesses to disseminate government mandated messages? Not applicable.

4. What are the estimated costs associated with retrofitting all city owned windows that pose a safety issue for birds with bird-friendly glass or alternatives by 2025? Additionally, how many windows are estimated to need to be retrofitted? These are unknowns and an audit would have to be conducted to get concrete numbers. Cost could range anywhere from several thousand to several tens of thousands.

5. Will these retrofitted windows and treatments result in increased ongoing maintenance costs to the city? Potentially, yes. Window films don't last forever, but like a window tint on a car, we should expect them to last for several decades.

6. How will these ordinance changes impact currently planned projects that have not yet started construction, such as the library, the Fox Commons development, and various housing developments planned for downtown? Public properties such as the Library would have to consider treatments. Fortunately, the new library design already incorporates bird-sensitive elements and may not need an additional treatments. Other project would not be affected unless the developer chooses to do so.

7. Will these proposed changes impact or increase the cost of building affordable housing developments in Appleton? I would not expect any significant cost increase. These treatments materials run anywhere from \$0.00 sf. if one were to deploy something like recycled CD's up to roughly \$1sf for something like CollidEscape or applying decals like WindowAlerts
8. Will this proposed ordinance impact the way developers view building something in Appleton? Will it make the city appear more friendly to new development or less so? I would hope the overall impact would be positive.
9. What percentage of new development in the city would be expected to have to install bird-friendly glass? Again, no one will be required to install bird-safe glass.
10. Have the alderpersons who submitted the resolution or city staff conducted a cost/benefit analysis comparing the increased cost of development caused by this resolution to the number and species of birds that would potentially be saved? No
11. Are there any situations in which this proposed ordinance would affect 1 and 2 family residential properties? No

Alex Schultz, Alderperson District 9

## Re: Answers to questions



Jessica Menn Anderson <admin@allthingsappleton.com>

7/19/2023 7:35 AM



To: Alex Schultz

Hi Alderperson Schultz,

Thanks for getting back to me and providing all those answers.

When I communicated with Attorney Behrens, he mentioned that the Madison ordinance was currently in the court undergoing appeal, so the legality of such a resolution was not at this point settled. He had told the authors about this and advised against introducing this resolution until the legal issues around the Madison ordinance were resolved.

What was the reasoning behind introducing the resolution now while the court case pertaining to the Madison ordinance is still underway?

Thanks,

Jessica Anderson  
All Things Appleton