

CHAPTER 152: ZONING ORDINANCE

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GENERAL PROVISIONS

§ 152.001 TITLE.

This Ordinance shall be known as “The Zoning Ordinance of the City of Janesville, Minnesota” and is referred to herein as “this Ordinance”.

§ 152.002 SCOPE AND PURPOSE OF STANDARDS.

(A) *Scope.* From and after the effective date of the Ordinance, the use of all land and every building and erection or structural alteration of any building or portion of a building in the City of Janesville shall be in conformity with the provisions of this Ordinance. Any structure or use lawfully existing at the passage of this Ordinance, but not in conformity with the regulations of the appropriate zoning district may be continued subject to the regulations of § 152.240, Nonconforming Uses of Land, Structures and Uses of Structures.

(B) *Purpose.* This Ordinance is adopted for the purposes of the following:

- (1) Protecting the public health, safety, morals, comfort, convenience, preservation of natural areas, and general welfare;
- (2) Promoting orderly development of the residential, commercial, industrial, recreational, and public areas;
- (3) Providing adequate light, air, and convenience of access to property;
- (4) Providing for the use compatibility of different uses and the most appropriate use of land throughout the City;
- (5) Preventing overcrowding of land and undue concentration of structures by regulating use of land and buildings and the bulk of buildings in relation to the land and structures surrounding them. (*Ord. passed 1/8/01*)

§ 152.003 RULES AND DEFINITIONS.

(A) *Rules.* For the purpose of this Ordinance certain terms and words are defined as follows:

- (1) The word “person” includes a firm, associations, organization, partnership, trust, company, or corporation, as well as an individual. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular;
- (2) The word “shall” is mandatory;
- (3) The word “used” or “occupied” include the words “intended”, “designed”, or “arranged to be used or occupied”;
- (4) The word “lot” includes the words “plot” or “parcel”.

(B) *Definitions.* Unless the context clearly indicates otherwise, the following words and phrases, as used in this Ordinance, have the meaning given to them in this section.

ABANDONED SIGN. Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after

demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with, and of nature customarily incidental and subordinate to, the principal use or structure.

ADJACENT OR CONTIGUOUS. Means adjoining, bordering, touching, or contiguous. If two (2) lots are separated by a public street, they shall not be deemed to be adjacent. If separated by a public alley or public walk, they shall be deemed adjacent.

AGRICULTURE. The use of land which included farming, dairy operations, pasturage, apiculture, horticulture, viticulture, animal, and poultry husbandry.

ALLEY. Any public right-of-way or private way whose primary function is to furnish vehicular access to the side or rear of properties having their main frontage on a street. For this Ordinance alleys shall not be considered streets.

ANNEXATION. The act of attaching unincorporated land lying contiguous to a municipal corporation.

ANTENNA. Equipment used for transmitting or receiving telecommunication, television, or radio signals, which is located on the exterior or outside of any building or structure.

APARTMENT. A dwelling unit within a house or building containing two (2) or more similar units. Each apartment is intended to be occupied by a single housekeeping unit.

ASSISTED LIVING FACILITY OR CONGREGATE HOUSING. A residential facility for four (4) or more elderly persons (age 60 or older) within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments.

AWNING. A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an awning.

AWNING SIGN. A building sign or graphic printed on or in some fashion attached directly to the awning material.

BALLOON SIGN. A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty-four (24) inches in diameter.

BASEMENT. That portion of a floor of a building which is wholly or partially, up to fifty percent (50%) of the floor area underground or below grade.

BED AND BREAKFAST INN. A house, or portion thereof, where short-term lodging and meals are provided. The operator of the inn shall live on the premises or on adjacent premises.

BILLBOARD. A structure upon which a sign is located which directs attention to a business, commodity, service, or entertainment, which is located or provided elsewhere than upon the premises where such structure is located.

BLOCK. A tract of land bordered on all sides by streets, or by one or more streets.

BOARDING OR ROOMING HOUSING. Any dwelling other than a hotel where meals or lodgings for

compensation are provided for five (5) or more persons, pursuant to previous arrangements.

BUFFER AREA. A landscaped area intended to separate and/or partially obstruct the view of adjacent land uses from the property.

BUILDABLE AREA. The space remaining on a lot after the minimum open space and setback requirements of this Ordinance have been met.

BUILDING. Any structure, including a roof supported by walls, designed or built for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind.

BUILDING HEIGHT. The vertical distance measured from the adjoining curb grade to the highest point of the roof surface if a flat roof, to the deck-line of a mansard roof, and to the mean height level between eaves and ridges for a gable, hip or gambrel roof; provided that where buildings are setback from the street line, the height of the buildings may be measured from the average elevation of the finished surface of the ground adjacent to the exterior walls of the building.

BUILDING, MAIN. A building in which is conducted the principal or primary use of the zoning lot on which it is situated.

BUILDING, PRINCIPAL. A building or structure in which is conducted the main or principal use of the lot on which said building or structure is situated.

BUILDING SETBACK LINE. The front lot of the building or the legally established line which determines the location of the building with respect to the street line, lot line, or ordinarily high water level.

BUILDING SIGN. Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING SITE. Any lot, or portion thereof, or two or more contiguous lots or portions thereof, or a parcel or land upon which an industrial or commercial building or buildings and appurtenant structures may be erected in conformance with the requirements of these protective covenants, the size and the dimensions of which are determined by the legal descriptions in the original conveyance from the City of Janesville to the first fee owner of each parcel.

BULK AND DENSITY CONTROLS. Those regulations or controls which specify the setback lines, lot size, building height, maximum ground coverage, lot width and lot depth.

CABINET SIGN. Any wall sign that is not of channel or individually mounted letter construction.

CANOPY. A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

CANOPY SIGN. Any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.

CHANGEABLE COPY SIGN. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.

CARPORT. A structure having a roof supported by columns but not otherwise enclosed, designed to shelter and automobile.

CAR WASH. A building that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Also referred to as an automobile wash.

CEMETERY. Land used or intended for the burial of the human dead and dedicated as a “cemetery” for such purposes.

CHILD CARE, HOME. A private residence where care, protection, and supervision are provided for a fee for children of any age, and the persons providing the care reside at the residence wherein care is provided.

CHURCH. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which buildings, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLINIC. A proprietary institution for the care, diagnosis, and treatment of sick, ailing or ailing persons who are in need of medical or surgical attention, but who are not provided with board or room, nor kept overnight on the premises.

CLUB. An organization of persons for special purposes or for the promulgation of sports, arts, literature, politics, or the like, but not operated for profit, excluding churches, synagogues, or other houses of worship.

COMMERCIAL SPEECH. Speech advertising a business, profession, commodity, service or entertainment.

COMMERCIAL USE. Any occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

COMMISSION. Means the Planning Commission of the City of Janesville, Minnesota.

COMMUNITY CENTER. A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant specific segments of the community. May also be referred to as a convention or civic center.

CONDITIONAL USE PERMIT. A conditional use permit is needed when certain uses because of their size, special requirements, or possible safety hazards are expected to have detrimental effects on surrounding properties, but may be compatible with the other uses if they are properly designed.

CONVENIENCE STORE. A retail establishment offering the sale of prepackaged food products, household items, and other goods commonly associated with this type of store. May also be combined with a service station.

COUNCIL. The City Council of the City of Janesville, Minnesota.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three (3) feet above ground.

DENSITY. The number of families, persons, or housing units per unit of land.

DEPTH OF REAR YARD. The average horizontal distance between the rear line of the building and the centerline of an alley, where an alley exists, otherwise a rear lot line.

DISTRICT ZONING. Any section of the incorporated area of the City of Janesville within which certain uniform regulations, requirements, or various combinations thereof apply under the provisions of this Ordinance.

DWELLING. Any building or portion thereof, which is designed for or used exclusively for residential purposes containing one or more dwelling units.

DWELLING, SINGLE-FAMILY. A detached residence designed for or occupied by one family only.

DWELLING, TWO-FAMILY. A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.

DWELLING, MULTI-FAMILY. A residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.

DWELLING UNIT. A room or group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating purposes.

EASEMENT. Granted by a property owner for the use of a strip of land for the purpose of construction and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or drainage ways and gas lines.

EGRESS WINDOW. A window that is required in specific locations in a dwelling and is intended to provide an emergency means of exiting a dwelling.

ELECTRONIC SIGN. A sign whose message may be changed at intervals by electronic process or by remote control, including the device known as a commercial electronic variable message sign.

ELEVATION. The view of the side, front, or rear of a given structure(s).

ELEVATION AREA. The area of all walls that face any lot line.

ENVIRONMENTAL IMPACT STATEMENT (EIS). A fact finding report required by the National Environmental Policy Act before a government may authorize a proposed project, program, law or any other major activity requiring a federal governmental authorization.

ERECT. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

ESSENTIAL SERVICE UTILITY STRUCTURE AND FACILITY. Includes, but is not limited to, a structure or facility used for the location, maintenance and/or service communication lines, natural gas, petroleum pipelines, television cable, or electrical transmission lines.

FAMILY. One or more persons occupying a single house-keeping unit and using common cooking facilities, provided that unless a majority of the members are related by blood or marriage, no such family shall contain over five (5) persons.

FINAL PLAT. The final drawing of a subdivision prepared for filing for record with the county auditor and containing all requirements set forth in state and local statutes.

FLAG. Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

FLASHING SIGN. A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling.

FLOOR AREA, GROUND. The area within the exterior walls of the main building or structure as measured from the outside walls at the ground level, not including garages or enclosed or unenclosed porches and not including attached utility or accessory rooms having three (3) or more exterior sides.

FOOTPRINT. The surface space occupied by a structure or device including any projections, attached or unattached, to the main structure, including garages or enclosed or unenclosed porches, attached utility or accessory rooms having three (3) or more exterior sides, egress windows, window wells, and chimneys.

FREESTANDING SIGN. Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

FRONTAGE. The line of contact of a property with the public right-of-way. All the property on one side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

FUNERAL HOME. A building or part thereof used for human funeral services. Such building may contain space and facilities for:

- (1) Embalming, Cremation, and performance of other services used in the preparation of the dead for burial.
- (2) The performance of autopsies and other surgical procedures on the dead.
- (3) The storage of caskets, funeral urns, and other related funeral supplies.
- (4) The storage of funeral vehicles.

A funeral chapel shall be considered an accessory use to a funeral home.

GARAGE, PRIVATE. A garage situated on the same lot of the principal use, and designed for the private storage of motor vehicles owned by the occupant of the principal use. No facilities for mechanical service or repair of a commercial nature are provided in the private garage. Such garage may be attached to the principal building or detached from the principal building. When the garage is attached to a principal building, it shall be considered part of the principal building for setback, yard, and building code purposes.

GARAGE, PUBLIC. A building designed and used for the storage of automobile vehicles and operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

GRADE, GROUND. The average elevation of the finished ground levels measured at the center of all exterior walls of a building.

GROUP HOME. A state licensed residential facility as defined by the Minnesota State Statute.

HOME OCCUPATION. An accessory use of a dwelling unit, conducted entirely within the dwelling unit, carried on by one (1) or more persons, all of whom reside within the dwelling unit, and no persons are employed at the dwelling unit other than the residents living therein.

ILLUMINATED SIGN. Any sign which contains an element designed to emanate artificial light internally or externally.

IMPERVIOUS SURFACE. Any material that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surface shall include compacted sand, lime-rock, clay, as well as

most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

INDUSTRIAL PARK. A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to in-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

An industrial park is designed as a coordinated environment for a variety of industrial and related activities. The project is developed or controlled by one proprietary interest. It has an enforceable master plan and /or covenants, conditions, and restrictions. The development may be on one parcel, may be subsidized, may have condominium ownership, or a combination of these.

INFRASTRUCTURE. Public support structures such as roads, street lighting, water and sewer lines.

INSTITUTION. A building occupied by a non-profit corporation or a non-profit establishment for public use.

INTERIM USE PERMIT. An interim use permit is required when certain uses may be allowed in a particular zoning district, but due to anticipated changes in development or the comprehensive plan, may not be reasonably utilized or acceptable in the future. (*Ord. Amend. 2009-D, 5/11/2009*)

JUNK. Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof.

Used machinery, scrap, iron, steel, other ferrous and nonferrous materials tools, implements or portions thereof, glass, plastic, cordage, building materials, or other waste that has been abandoned from its original use and may be used again in its present or in a new form.

JUNK YARD. Any place where two (2) or more motor vehicles not in running condition, or parts thereof are stored in the open, in a fenced area, or in a partially enclosed building, and are not being restored to operation

Any land used for wrecking or storing of such motor vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition, and including an open area where waste, scrap metal, used building material, paper, rags or similar materials are bought, sold, exchanged, stored, baled packed, disassembled, or handled, but excluding such uses taking place entirely within a completely enclosed building.

KENNEL. Any lot or premises on which four (4) or more dogs, more than four months of age, are kept.

LAND USE. A term used to indicate utilization of any piece of land.

LAUNDRY, SELF-SERVICE. A business that provides home-type washing, drying, and/or ironing machines for hire to be used by customers on the premises.

LODGING HOME. A building where room and/or board for three (3) or more persons are provided for compensation.

LOTS. For zoning purposes, as covered by this Ordinance, a lot is a parcel of land of at least sufficient size to meet the minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street or an officially approved private street permanently reserved as the principle means of access to abutting property, and may consist of:

- (1) A single lot of record
- (2) A portion of a lot of record

(3) A combination of a complete lot of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

(4) A parcel of land described by metes and bounds

LOT, CORNER. A lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

LOT, INTERIOR. Defined as a lot other than a corner lot with only one (1) frontage on a street other than an alley.

LOT, THROUGH. A lot other than a corner lot with frontage on more than one (1) street other than an alley. Through lots with frontage on streets may be referred to as double-frontage lots.

LOT, WIDTH. The width of the lot at the building line.

LOT OF RECORD. A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Waseca County, Minnesota, or a parcel of land described by metes and bounds, the description of which has been recorded in the office of the County Recorder of said County.

MANUFACTURED HOUSING. Applies to:

(1) Factory-built one-family structure built and transported in sections to a permanent site and not intended for additional transportation once it has been placed on a permanent site.

(2) A transportable, factory-built home, designed to be used as a year around residential dwelling. Such structure has wheels or axles permanently attached to its frame.

(3) A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and is built on a permanent chassis and when connected to the required utilities, includes plumbing, heating, air conditioning, and electrical systems contained therein.

MARQUEE. Any permanent roof-like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN. Any building sign painted, mounted, constructed or attached in any manner, on a marquee.

MOBILE HOME. A single family dwelling designed to be moved by being built on a frame or chassis and further specifically designed and constructed so that the wheels are, or may be attached for transportation on public streets, or highways, and designed without the need for permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operation; location on wheels, jacks, blocks, or other foundations, excluding basement or cellar, connection to the utilities and the like. Such structure built prior to June 15, 1976, are referred to as mobile homes.

MOBILE HOME PARK. A parcel of land under single ownership or control which has been planned and improved for the placement of two (2) or more mobile homes.

MODULAR HOME. A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site with a permanent foundation.

MONUMENT SIGN. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding eight (8) feet.

METES AND BOUNDS. A method of property description by means of their direction and distances from an easily identifiable point.

MIXED USE ZONING. Zoning which permits a combination of several uses within a single development.

MOTOR VEHICLE. Any automobile, vehicle, car, truck, or trailer.

NONCONFORMING BUILDING. Any building that does not meet zoning district regulations for building size, building height, lot coverage, or setback.

NONCONFORMING USE. A use which lawfully existed prior to the enactment of a zoning ordinance, and which is maintained after the effective date of the ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated.

NON-COMMERCIAL SPEECH. Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

NURSING HOME. A place, residence, or home used for the boarding and care of the elderly or infirm who are dependent upon the services of others.

NUISANCE. Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

OFF-PREMISE SIGN. A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such platted parcel of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

OFFICE. A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

ON-PREMISE MESSAGES. Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

OPEN SPACE. Land with no development or minimum development use. Parking or driveways shall not be considered permitted open space.

ORDINANCE. A legislative enactment of a county or city.

PARAPET (WALL). The portion of building wall that rises above the roof level.

PARK. Any public or private land available for recreational, educational, cultural, or aesthetic use.

PARKING, JOINT. The development and use of a parking space or parking lot by two (2) or more separate developments.

PARKING, LOT. An unenclosed or enclosed area used for the temporary parking of four (4) or more motor vehicles.

PARKING SPACE OR STALL. An obstructed space or area, of such dimension and construction in conformance with this Chapter that is permanently reserved and maintained for the parking of one (1) motor vehicle.

PATIO. An attached or unattached structure at ground level that does not contain walls or a roof, and is not used for parking purposes.

PLANNING COMMISSION. The Planning Commission of the City of Janesville, Minnesota.

PLANNED UNIT DEVELOPMENT (PLANNED DEVELOPMENT). An area for which a unitary development plan has been prepared indicating, but not being limited to the following land uses: opens space, on-site circulation for both pedestrians and vehicles, parking setbacks, housing densities, building spacing, land coverage, landscaping, relationships, streets, building heights, accessory uses, and architectural treatment.

A Planned Unit Development also includes “Cluster Developments,” which are a development design technique that concentrates buildings in a specific area on a site to allow the remaining land to be used for recreation, common open space, or preservation of environmentally sensitive areas.

PLAT. A map representing a subdivision of a parcel of land into lots, blocks, and streets or other divisions and dedications.

PORTABLE SIGN. Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

PORTE COCHERE. A roofed structure or roof-like cover, extending from the entrance of a building and which provides shelter over a doorway.

PROJECTING SIGN. Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface or such building or wall face.

PRELIMINARY PLAT. An approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and restrictive covenants to be applicable to the subdivision.

PROPERTY LINES. Lines marking boundaries of a lot.

RAILROAD RIGHT-OF-WAY. A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, or water towers.

REZONING. A change in the designation of boundaries of the zoning ordinance. It is a legislative act and can only be performed by the governing body.

ROOF LINE. The upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade.

ROOF SIGN. Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

ROOF SIGN, INTEGRAL. Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

ROTATING SIGN. A sign or portion of a sign which turns about on an axis.

SCHOOL. A public or private facility that provides a curriculum of elementary and secondary academic instruction, including daycares, preschools, kindergartens, elementary, junior high schools, and high schools.

SCREEN. A neat, orderly and healthy screen of evergreen or other plant material suitable for the purpose intended, not less than three (3) feet high with an expected normal growth to five (5) feet in height, and, where necessary, protected by a galvanized wire link fence at least five (5) feet high. A decorative wooden or masonry fence or other decorative material or landscaping may be substituted for the vegetation. Bumper guards or wheel stops shall be provided as necessary to prevent damage to a required screen or fence by automobiles.

SETBACK. The minimum horizontal distance from the property line to the building line.

SHIMMERING SIGNS. A sign which reflects an oscillating sometimes distorted visual image.

SIGN. Any device designed to inform, or attract the attention of persons not on the premises on which the sign is located.

SIGN, SURFACE AREA. The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total surface area.

SITE PLAN. A scale drawing showing proposed uses and structures for a parcel of land as required by applicable regulations. It includes lot lines, lot area, streets, parking spaces, private roadways, walkways, topographic features, reserved open space, footprint of buildings, and other structures, major landscape features, and the location of proposed utility easements. It is more detailed than a plat and may include a plat and may include density and statistical data.

SITE PLAN REVIEW. The process whereby local officials, usually the planning commission and staff or an appointed site plan review team, review the site plan or a development to assure that they meet the stated purpose and standards of zoning and other regulations, provide for the necessary public facilities such as roads and schools, and protect and preserve desirable features and adjacent properties through the appropriate location of structures and the use of landscaping.

STREETS. A public or private thoroughfare used, or intended to be used, for travel by motor vehicles. Streets are further classified by the function they perform as follows: local, collector, and arterial. For the purpose of this Ordinance, public alleys shall not be considered streets.

STREET LINE. The right-of-way line of a street.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to buildings, mobile homes, walls, fences, billboards, and poster panels.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, partitions, columns, beams, or girders, or any substantial change in the roof or any exterior walls, excepting such repair or replacement as may be required for the safety of the building.

SUBDIVISION. The division of a tract of land, lot, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, meets and bounds description, lease, map, plat, or other instrument.

SWIMMING POOL. A swimming pool is defined as constructed of more than eighteen (18) inches in depth and/or 1,000 gallons in holding capacity.

TOWER. Any ground or roof mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus.

TRANSFER OF DEVELOPMENT RIGHTS. The conveyance of development rights by deed, easement, or other legal instrument authorized by local law to another parcel of land and the recording of that conveyance.

USE. The activity occurring on a lot or a parcel for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied, including all accessory uses.

VARIANCE. The Board of Appeals is authorized by state law to hear the request and order issuance of variances from the terms of any official control including restrictions placed on nonconformities consistent with M.S. Ch. 462, as it may be amended from time to time. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the terms of the variance are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control.

VEHICLE. A medium through which something is conveyed, transmitted, expressed, or achieved.

WALL SIGN. Any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

WAREHOUSE. A building used primarily for the storage of goods and materials.

WAREHOUSING AND DISTRIBUTION. A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

WETLAND. An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal conditions, commonly known as hydrophytic vegetation.

WINDOW SIGN. Any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

WINDOW WELL. A structure or device designed to allow for the opening of a window that is located either partially or wholly sub-grade on an external wall of a dwelling. Window wells shall have horizontal dimensions that allow the door or window of the emergency escape and rescue opening to be fully opened

YARD. A required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided, however, that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

YARD, FRONT. A yard extending between side lot lines across the front of a lot. On a corner lot, the owner may elect either street frontage as the front yard. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

YARD, SIDE. A yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard. In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots there will be only one side yard, adjacent to the interior lot. Width of required side yards shall be measured at right angles to a straight line joining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

YARD, REAR. A yard extending across the rear of the lot between the side lot lines. In the case of through lots there will be no rear yard. On all other lots the rear yard shall be at opposite ends of the lot from the front yard. Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines. The forward rear yard line of a required rear yard shall be parallel to the straight line so established. When a lot is adjacent to an alley, the required rear yard may be measured from the center of the alley, and one-half (1/2) of the alley width may be considered a portion of the required rear yard.

ZERO LOT LINE. The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

ZONE. A portion of the territory of the City of Janesville, exclusive of streets, alleys, and other public ways, within which certain uses of land, premises, and buildings are not permitted and within certain yards and open spaces are required and certain height limits are established for buildings.

ZONING. The process by which a local government legally controls the use of property and the physical configuration of development upon tracks of land within its jurisdiction.

ZONING ADMINISTRATOR. The person duly appointed by the City Council and charged with the enforcement of this Ordinance of his/her authorized representative.

ZONING DISTRICT. An area or areas within the limits of the zoning jurisdiction for which the regulations and requirements governing use, lot and bulk of structures and premises are uniform.

ZONING MAP. The map or maps incorporated into this Ordinance as part hereof designating the zoning districts.

ZONING ORDINANCE. The local law adopted by governing body to assure orderly development according to specific standards established for the general public welfare and to implement a comprehensive plan.

CLASSIFICATION OF ZONING DISTRICTS.

§ 152.015 DISTRICTS.

For the purpose of this Ordinance, the City of Janesville is hereby divided into classes of districts, which shall be designated as follows:

R-1	Single-Family Residential District	§§ 152.030 - 152.036
R-2	Multi-Family Residential District	§§ 152.050 - 152.056
R-3	Manufactured Home Park	§§ 152.070 - 152.080
B-1	General Business District	§§ 152.090 - 152.095
B-2	Central Business District	§§ 152.105 - 152.111
B-3	Highway Business District	§§ 152.112 – 152.123
M-1	Industrial District	§§ 152.125 - 152.132

(Amd. Ord. 2004-C, 6/28/04)

§ 152.016 ZONING MAP.

The location and boundaries of the districts established by this Ordinance are hereby set forth on the Zoning Map and said Map is hereby made a part of this Ordinance; said Map shall be known as the “City of Janesville Zoning Map.” Said Map and all notations, references, and data shown thereon are hereby incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the Zoning Administrator to maintain the Zoning Map within thirty (30) days after official publication of amendments. The official Zoning Map shall be kept on file at City Hall.

§ 152.017 DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(A) Boundaries indicated, as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

(B) Boundaries indicated, as approximately following platted lot lines shall be construed as following such lot lines.

(C) Boundaries indicate as approximately following City limits shall be construed as following City Limits.

(D) Boundaries indicate, as following railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

(F) Boundaries indicated as parallel to or extensions of features indicated in subsection (A) through (B) above shall be so construed. Distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map.

(G) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (A) through (G) above, the Board of Appeals shall interpret the district boundaries.

§ 152.018 ZONING UPON ANNEXATION.

The following procedures shall apply for establishing zoning in areas annexed to the City of Janesville:

(A) *Interim Zoning.* Upon annexation, and until permanent zoning is adopted as provided below, each parcel of annexed land shall be automatically zoned to the district in this Ordinance which most closely conforms to the adjacent municipal zoning district. Any land not subject to zoning at the time of annexation shall be automatically zoned as R-1 Single-Family Residential until the permanent zoning is adopted.

(B) *Permanent Zoning.* Within a reasonable time after annexation, permanent zoning shall be established for all annexed areas, according to the procedures set forth for the Planning Commission to review and make recommendations and hearing and final action by the Council.

§ 152.019 USES NOT PROVIDED FOR IN THE ZONING DISTRICT.

Whenever in any zoning district a use is neither specifically permitted nor denied the use shall be considered prohibited. In such case the Council or the Planning Commission, on their own initiative or upon request of a property owner may conduct a study to determine if the use is acceptable and, if so, what zoning district would be most appropriate and the determination as to condition and standards relating to development of the use. The Council or the Planning Commission, upon receipt of the study shall, if appropriate, initiate an amendment to this Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the city.

SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1)

§ 152.030 PURPOSE.

The Single-Family Residential District (R-1) is intended to establish a district which will define and protect areas suitable for low density residential development as the principal land use of the land and to allow related facilities desirable for a residential environment.

§ 152.031 PERMITTED USES.

The following uses shall be permitted in the Single-Family Residential District (R-1):

- (A) Any Single-Family dwelling, providing that dwelling has a foundation encompassing the entire perimeter of the dwelling.
- (B) Existing public or parochial schools including parish houses.
- (C) Any park, playground, golf course or community building owned or operated by a governmental agency.
- (D) Any utility facility necessary for local service.
- (E) Any home occupation subject to the provisions of § 152.176 of this Ordinance.
- (F) Existing institutions of religious, educational, charitable, or philanthropic nature including expansions to the facilities. *(Ord. passed 1/8/01)*

§ 152.032 CONDITIONAL USES.

The following uses may be allowed in the Single-Family Residential District (R-1) subject to obtaining a Conditional Use Permit in accordance with the provisions of § 152.241 of this Ordinance.

(A) Any two-family dwelling, including zero lot line attached home, providing that dwelling has a foundation encompassing the entire perimeter. Each conditionally approved two-family zero lot line attached home development shall be subject to the following requirements:

- (1) A survey of the development site must be filed with the city.
 - (2) A common wall agreement or covenant must be filed with the city.
 - (3) Each unit must have separate services for water, sewer, electric and other utilities.
 - (4) Each home must front a public street.
 - (5) If the zero lot line development is discontinued, the original parcel from which the lots were created shall be made into a single lot.
- (B) Any moved-in structure not constructed entirely of new materials.
 - (C) New public or parochial schools.
 - (D) New Institutions of religious, educational, charitable, or philanthropic nature, including parish houses.
 - (E) Planned Unit Developments

(F) Other residential, institutional, or government services uses determined by the Planning Agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

§ 152.033. PERMITTED ACCESSORY USES.

The following uses shall be permitted accessory uses within the Single-Family Residential District (R-1):

(A) Any accessory building or use in association with any permitted or conditional permitted use subject to provisions of § 152.178 of this Ordinance.

(B) Any swimming pool provided such pool is located only in the buildable portion of a lot. Such pool must be secured with a lockable cover or an enclosure or fence, a minimum of five (5) feet in height measured from the top of the pool.

(C) Any one (1) travel trailer, camper, or aquatic vehicle, provided that such travel trailer, camper, or vehicle does not exceed nineteen (19) feet in length, and no living quarters shall be maintained and no business or other activity shall be carried on in such travel trailer or boat (aquatic vehicle).

§ 152.034 HEIGHT, AREA, AND YARD REGULATIONS.

No building shall be erected or enlarged unless the following minimum requirements are met:

(A) *Height Regulations.* No permitted or conditionally permitted building shall be erected or enlarged to exceed thirty-five (35) feet.

(B) *Front Yard.* There shall be a minimum front yard of twenty-five (25) feet from the property line. In the event the building is located on a lot at the intersection of two (2) or more roads, such lot shall have a front yard abutting each such road.

(C) *Side Yard.* Every building, except buildings on corner lots, shall have (2) side yards. Each side yard shall have a width of not less than eight (8) feet from the property line.

(D) *Rear Yard.* There shall be a minimum rear yard of twenty-five (25) feet from the property line.

(E) *Lot Area.*

(1) Every lot on which a single-family dwelling is erected shall contain an area of not less than ten thousand (10,000) square feet. (*Ord 2021-B, passed 09-13-21*)

(2) Every lot on which a two-family dwelling is erected shall contain an area of not less than twelve thousand five hundred (12,500) square feet. (*Ord 2021-B, passed 09-13-21*)

(3) For uses other than residential, the lot area shall be adequate to meet the setback, yard, and other applicable requirements of this Ordinance.

(F) *Lot Width.* Every lot shall have a minimum width at the building setback line of sixty four (64) feet.

§ 152.035 EXCEPTIONS.

(A) *Lot of Record.* A lot of record at the time of adoption of this Ordinance which does not meet the minimum lot area and width requirements, may be occupied by a permitted use, provided that yard and other requirements

of this Ordinance are met, and provided that the owner does not own any adjoining land on the date of adoption of this Ordinance.

(B) *Yard Requirements.* Certain lots and uses are exempted from meeting yard requirements. These exceptions are listed in § 152.160 of this Ordinance.

(C) *Height Requirements.* Certain lots and uses are exempted from meeting height requirements. These exceptions are listed in § 152.164 of this Ordinance.

§ 152.036 GENERAL REGULATIONS.

(A) *Off-Street Parking.* Requirements set forth in §§ 152.195 through 152.208 of this Ordinance.

(B) *Loading Regulations.* Requirements set forth in §§ 152.220 through 152.222 of this Ordinance.

(C) *Sign Regulations.* Requirements for signage are set forth in § 152.177 of this Ordinance.

(D) *Additional Regulations.* Additional general regulations are set forth in §§ 152.175 through 152.181 of this Ordinance.

MULTI-FAMILY RESIDENTIAL DISTRICT (R-2)

§ 152.050 PURPOSE.

The Multi-Family Residential District (R-2) is intended to establish a district suited for multi-family high density residential development thus preserving value and character of the low density residential areas. (*Ord. passed 1/8/01*)

§ 152.051 PERMITTED USES.

The following uses shall be permitted within the Multi-Family Residential District (R-2):

- (A) Any single-family dwelling, providing that dwelling has a footing and foundation encompassing the perimeter of the dwelling.
- (B) Any public or private school.
- (C) Any park, playground or community building owned or operated by a governmental agency.
- (D) Any utility facility necessary for local service.
- (E) Any home occupation subject to the provisions of § 152.176 of this Ordinance.
- (F) Multi-family dwellings, apartment buildings, townhouses, and group or row houses consisting of twelve (12) dwelling units or less.
- (G) Boarding or lodging houses.
- (H) Hospitals, convalescent and nursing homes.
- (I) Existing institutions of religious, educational, charitable, or philanthropic nature, including parish houses.
- (J) Private clubs or lodges except those whose chief activity is a service customarily carried on as a business. (*Ord. passed 1/8/01*)

§ 152.052 CONDITIONAL USES.

The following uses may be allowed in the Multi-Family Residential District (R-2) subject to obtaining a Conditional Use Permit in accordance with the provisions of § 152.241 of this Ordinance.

(A) Two-dwelling units, including two-family zero lot line attached homes, multi-family dwellings, apartment buildings, townhouses, and group or row houses more than twelve (12) dwelling units. Each conditionally approved two-family zero lot line attached home development shall be subject to the following requirements:

- (1) A survey of the development site must be filed with the city.
- (2) A common wall agreement or covenant must be filed with the city.
- (3) Each unit must have separate services for water, sewer, electric and other utilities.
- (4) Each home must front a public street.

(5) If the zero lot line development is discontinued, the original parcel from which the lots were created shall be made into a single lot.

(B) Any moved-in structure not constructed entirely of new materials.

(C) New Public or parochial schools.

(D) New Institutions of religious, educational, charitable, or philanthropic nature, including parish houses.

(E) Planned Unit Developments

(F) Other residential, institutional, or government services uses determined by the Planning Agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

§ 152.053 PERMITTED ACCESSORY USES.

The following uses shall be permitted accessory uses within the Multi-Family Residential District (R-2):

(A) Any accessory building or use in association with any permitted or conditional permitted use subject to provisions of §152.178 of this Ordinance.

(B) Any swimming pool, provided such pool is located only in the buildable portion of a lot and is secured by a lockable cover or completely enclosed by a fence of not less than five (5) feet in height, measured from the top of the pool deck.

(C) Any one (1) travel trailer, camper, or aquatic vehicle, provided that such travel trailer, camper, or vehicle does not exceed nineteen (19) feet in length, and no living quarters shall be maintained and no business or other activity shall be carried on in such travel trailer or boat (aquatic vehicle).

§ 152.054 HEIGHT, AREA, AND YARD REGULATIONS.

(A) *Height Regulations.* Structures shall not exceed four (4) stories or forty-five (45) feet in height.

(B) *Front Yard.* There shall be a minimum front yard of twenty-five (25) feet from the property line. In the event the building is located on a lot at the intersection of two (2) or more roads such lot shall have a front yard abutting each such road.

(C) *Side Yard.* For one and two-family dwellings, there shall be a side yard having a depth of not less than six (6) feet. (*Ord. 2014-D; 12/22/14*)

(1) For multi-family dwellings and all other principal buildings and uses, there shall be a side yard at a minimum of ten (10) feet.

(D) *Rear Yard.* There shall be a rear yard having a depth of not less than twenty (20) feet.

(E) *Lot Area.*

(1) Minimum area of not less than twelve thousand five hundred (12,500) square feet on the first three units. (*Ord 2021-B, passed 09-13-21*)

(2) An additional two thousand (2,000) square feet of lot area shall be required for each unit in excess of three (3) units.

(F) *Lot Width.* Every lot shall have a minimum width at the building setback line of sixty four (64) feet.

§ 152.055 EXCEPTIONS.

(A) *Lot of Record.* A lot of record at the time of adoption of this Ordinance which does not meet the minimum lot area and width requirements, may be occupied by a permitted use, provided that yard and other requirements of this Ordinance are met, and provided that the owner does not own any adjoining land on the date of adoption of this Ordinance.

(B) *Yard Requirements.* Certain lots and uses are exempted from meeting yard requirements. These exceptions are listed in § 152.160 of this Ordinance.

(C) *Height Requirements.* Certain lots and uses are exempted from meeting height requirements. These exceptions are listed in § 152.164 of this Ordinance.

§ 152.056 GENERAL REGULATIONS.

(A) *Off-Street Parking.* Requirements for off-street parking are set forth in §§ 152.195 through 152.208 of this Ordinance.

(B) *Loading Regulations.* Requirements are set forth in §§ 152.220 through 152.222 of this Ordinance.

(C) *Sign Regulations.* Requirements for signage are set forth § 152.177 in of this Ordinance.

(D) *Additional Regulations.* Additional general regulations are set forth in §§ 152.175 through 152.181 of this Ordinance.

MANUFACTURED HOME PARK (R-3)

§ 152.070 PURPOSE.

(A) This district is established to provide for the development of MANUFACTURED HOME PARK (R-3), as defined in § 152.003 (B) of this Ordinance, as well as establish requirements governing the location and density of said developments.

(B) This Ordinance shall not be applicable to existing facilities or existing Manufactured Home Parks, but shall have application to all new Manufactured Home Park developments which are hereafter constructed as well as the expansion of existing Manufactured Home Courts.

(C) All improvements of the land including buildings and all appurtenances thereto shall conform to all applicable laws, ordinances and regulations (including deed restrictions and covenants running with the land).

(D) No manufactured home shall be admitted to any park unless it can be demonstrated that it meets the requirements of American Standard Association Code Provision A-119.1-1968; American Standards for Installation in Manufactured Homes of Electrical Heating and Plumbing Systems, or Manufactured Homes Manufacturers Association Manufactured Homes Standards for Plumbing and Heating and Electrical Systems; and all State, County, and City Codes governing installation plumbing, heating and electrical systems.

§ 152.071 PERMITTED USES.

Within a Manufactured Home Park (R-3), unless otherwise provided by this Ordinance, no building or land shall be used except for the following:

- (A) Manufactured Homes as defined in § 152.003 (B) in this Ordinance.
- (B) Manufactured Home Parks.
- (C) Public Open Space.

§ 152.072 CONDITIONAL USES.

Within a Manufactured Home Park, buildings or land may be used for one or more of the following uses, if granted a Conditional Use Permit as provided in § 152.241 of this Ordinance. Manufactured Home Park, as defined by MN Statutes 327.14 Subdivision 3, is permitted by Minnesota Statutes 462.357 Subdivision 1b as a Conditional Use in all zoning districts that allow the construction or placement of a building used or intended to be used by two or more families.

(A) Public and parochial schools having a regular course of study accredited by the State Department of Education.

(B) Churches, chapels, temples, synagogues, convents, seminaries, monasteries and nunneries.

(C) Publicly owned buildings or structures, utility buildings, telephone exchanges, transformer stations and substations, but not including yards (storage) or similar facilities.

§ 152.073 PERMITTED ACCESSORY USES.

The following shall be permitted accessory uses in the Manufactured Home Park:

(A) Uses incidental or accessory to the operation of a Manufactured Home Park, provided such uses are only for the benefit and convenience of the occupants of the Manufactured Home Park and approved by the Planning Commission. Such uses shall not occupy more than ten (10) percent of the area of the park.

(B) Privately owned recreation facilities such as swimming pools or tennis courts for the use of the residents and guests.

(C) Private garages.

(D) Tool houses and sheds or similar buildings for the storage of domestic supplies.

§ 152.074 HEIGHT, AREA, AND YARD REGULATIONS.

No building shall be erected or enlarged unless the following minimum requirements are met:

(A) *Distance between dwellings.* Minimum distance between units shall be not less than thirty (30) feet or the sum of the height of two (2) units, whichever is greater; the point of measuring being a straight line between the closest points of the units being measured.

(B) *Minimum setback.* All manufactured home units shall be twenty (20) feet, measured from the right-of-way line to the front edge of the pad.

(C) *Manufactured home width.* Minimum width or depth of sixteen (16) feet.

§ 152.075 LOT COVERAGE AND SETBACK REQUIREMENTS.

(A) All buildings, including accessory buildings shall not cover more than twenty-five (25) percent of the Manufactured Home Park area.

(B) There shall be a minimum of fifty (50) feet between the property line of any Manufactured Home Park and any use within said court. Said area shall act as a buffer zone and shall be landscaped according to a landscape plan to be submitted for review by the Planning Commission. No fence shall be allowed within the setback area.

§ 152.076 GENERAL INTERNAL PARK DEVELOPMENT REQUIREMENTS.

(A) The entire Manufactured Home Park shall be landscaped (excluding hard surface areas) and there shall be one (1) shade tree upon every twenty-five (25) feet of internal or external street footage. The minimum requirements for plantings shall be: broadleaf trees shall be not less than two and one-half (2 ½) in diameter. Coniferous plants shall be not less than five (5) feet in height.

(B) All utilities supplied by the Manufactured Home Park to the manufactured home units shall be placed underground. This shall include sanitary sewer, municipal water, electricity, and telephone cables. All fuel (gas or oil) supplied by the Manufactured Home Park shall also be located underground.

(C) The manufactured home stands shall be at such elevation, distance and position relative to the street or driveway, that the placement and removal of the manufactured home with a tractor, tow truck or other customary moving equipment is practical. The manufactured home stands shall have a longitudinal grade of not less than four (4) percent in traverse crown or grade to provide adequate surface drainage. The stand shall be compacted and surfaced with a material, which will prevent the growth of vegetation, while supporting the maximum anticipated

load during all seasons. Stands shall be of sufficient size to accommodate the entire length and width of the manufactured home unit.

(D) The number of spaces completed and ready for occupancy before the first occupancy is permitted shall be twenty-four (24).

(E) *Required structures in Manufactured Home Park.* Buildings for the use of the residents of the Manufactured Home Park during severe weather or national emergency. Such buildings shall have a minimum net floor area of thirty-five (35) square feet or ten (10) square feet per resident, whichever is greater. Said building may be used for accessory uses designated in this Section.

(F) Sidewalks of not less than thirty-six (36) inches in width shall be constructed of Portland cement adjacent to both sides of the street and street curbing, unless the design of the Manufactured Home Park is such as to better and more safely facilitate pedestrian traffic in other areas of the Manufactured Home Park, in which case such alternate routes shall meet this requirement.

(G) For the provision for collection and disposal of surface and subsurface water to protect the structures and manufactured home stands, and to provide safe and convenient use of streets, lot areas, and other improvements, all drainage structures shall be constricted in strict accordance with the Subdivision Regulations of the City of Janesville.

(H) A manufactured home site or stand shall be used for parking not more than one (1) manufactured home unit.

(I) The condition of soil, ground water level, drainage, rock formations and topography shall be such as not to create hazards to the property or to the health and safety of the occupants. The manufactured home stand and unit in the expanded position shall not cover more than twenty-five (25) percent of the manufactured home lot including all pertinent enclosed structures.

(J) Each manufactured home stand or unit shall be provided with an off-street paved parking space large enough to accommodate a minimum of two cars. Such paved area shall have a minimum dimension of four hundred (400) square feet and shall be located behind the property line on dedicated streets.

(K) Where off street parking is provided, the cul-de-sac shall be a minimum of sixty (60) feet in diameter.

(L) Each manufactured home shall be completely enclosed with a material as prescribed by the Planning Commission.

(M) No public address systems shall be permitted.

(N) The Court Manager shall keep a register of all manufactured home owners in the Park, including name or owner and date of arrival and departure. The Park Manager shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duty necessitates acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the Park.

§ 152.077 STREETS.

(A) Streets shall be at least twenty-six (26) feet in width without on-street parking. When on-street parking is allowed the minimum width shall be not less than thirty (30) feet. One way streets shall be a minimum of fifteen (15) feet wide.

(B) Streets shall be constructed to conform to the standards of the City.

(C) Access to Manufactured Home Courts shall be so designed as to permit minimum ingress and egress points so as to better facilitate traffic movement and to better control undesirable traffic into the park by the park operator.

(D) Street access shall not be permitted into or upon minor, single-family residential area streets.

(E) Streets shall be upgraded to their full width to provide proper grades for pavement, curbs and sidewalks and to provide adequate surface drainage to the storm sewer system. The improvements shall extend continuously from existing improved streets to provide access to each stand and to provide connections to existing or future streets at the boundaries of the Manufactured Home Park.

(F) Streets and parking areas shall be surfaced for all weather travel as designated by the Planning Commission.

§ 152.078 STORAGE.

Enclosed storage lockers, when provided, shall be located either adjacent to the manufactured home or such other place in the Manufactured Home Park as to be convenient to the unit for which it is provided. Storage of large items such as boats, boat trailers, snowmobiles, etc., shall not be accomplished at the site of the manufactured home unit, but rather shall be provided in a separate screened area of the Manufactured Home Park.

§ 152.079 LENGTH OF RESIDENTIAL OCCUPANCY.

No space shall be rented for any residential use of a manufactured home in any such Manufactured Home Park except for periods of thirty (30) days or more.

§ 152.080 GENERAL REGULATIONS.

(A) *Off-Street Parking.* Requirements for off-street parking are set forth in §§ 152.195 through 152.208 of this Ordinance.

(B) *Loading Regulations.* Requirements are set forth in §§ 152.220 through 152.222 of this Ordinance.

(C) *Sign Regulations.* Requirements for signage are set forth in § 152.177 of this Ordinance.

(D) *Additional Regulations.* Additional general regulations are set forth in §§ 152.175 through 152.181 of this Ordinance.

GENERAL BUSINESS DISTRICT (B-1)

§ 152.090 PURPOSE.

(A) The General Business District (B-1) is intended to encourage the concentration of a broad range of commercial establishments, including drive-in businesses, establishments requiring outdoor storage and display areas, and businesses operating with late hours.

(B) It is important that businesses in this district provide adequate off-street parking with safe ingress and egress to the adjoining streets. Equally important is the provision of adequate safeguards between business establishments and residential uses when the two are adjoining.

§ 152.091 PERMITTED USES.

The following uses shall be permitted within the General Business District (B-1):

(A) *Retail Stores.* Primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of such merchandise.

- (1) Any grocery store, meat market, supermarket, fruit market or bakery.
- (2) Any pharmacy or health equipment stores.
- (3) Any apparel, jewelry, gift, toy, novelties, variety, department, antique, sporting goods, or souvenir stores.
- (4) Any hardware store or lumber, heating and plumbing shops and similar construction material sales, service, or rental facilities.
- (5) Any candy, ice cream, and confectionary stores.
- (6) Any caterers.
- (7) Any furniture, home furnishings, or appliance stores.
- (8) Any hobby shops or art supply stores.
- (9) Interior decorators.
- (10) Liquor stores (off-sale)
- (11) Locksmiths
- (12) Video sales and rental.
- (13) Any electronics store.
- (14) Stationary, printing, or newspaper press.

(B) *Personal Services.* Generally involving the care of persons or their personal effects.

- (1) Any cleaning or laundry establishment, self service laundry including any pressing, cleaning or garment repair.

(2) Any dressmaking, millinery, tailoring or shoe repair shop.

(3) Any beauty shop or barber shop.

(4) Any photographic studio.

(5) Any restaurants, bar, club/lodge with or without liquor. No production of alcohol shall be permitted in conjunction with such use.

(6) Party/event equipment rental.

(7) Fitness Centers.

(C) *Administrative*. Includes business or professional offices.

(1) Any bank or savings and loan institution.

(2) Any insurance or real estate agent or broker.

(3) Any professional office, including any physician, dentist, chiropractor, engineer, architect, lawyer, or recognized profession.

(4) Any veterinary clinic where there are no outside runs or kennels.

(D) *Entertainment and Recreational Establishments*. Any theater, dance hall, bowling alley, pool or billiard hall, or roller or ice rink.

(E) *Motor Vehicle and Implement Sales and Service*.

(1) Any automobile sales or services, car wash, trailer sales or service, auto repair garage, auto body repair, or automobile rental.

(2) Any motor fuel station.

(3) Any agricultural equipment sales and service.

(4) Any truck sales or service, truck wash or truck repair garage.

(5) Any boat sales or repair.

(6) Any mobile home or travel trailer sales or repair.

(7) Any small engine repair.

(8) Any auto accessory sales.

(F) *Repair Services*.

(1) Any electrical repair shops.

(2) Any watch, clock, or jewelry repair.

(3) Any reupholster and furniture repair.

- (4) Any repair service carried on in conjunction with any permitted use.

(G) *Business Services.* Any building materials sales or contractor's office provided such uses shall be conducted wholly within an enclosed building.

(H) *Drive-in Establishments.*

- (1) Any drive-in establishment including banks and restaurants.
- (2) Any shopping center.

(I) *Miscellaneous Uses.*

- (1) Any utility facility necessary for local service.
- (2) Any residence when included as an integral part of the principle building to be occupied by the owner or his employee.
- (3) Any distributor, warehouse, and wholesale outlets provided such uses shall be conducted wholly within a building. No processing or fabrication shall be permitted in conjunction with such uses.
- (4) Funeral Home.
- (5) Commercial storage or mini-storage facilities contained within a building.
- (6) Any existing single-family residence and the expansion of said residence. (*Ord. 2013-A; 2/11/2013*)

§ 152.0911 CONDITIONAL USES.

The following uses shall be allowed in the General Business District (B-1) subject to obtaining a Conditional Use Permit in accordance with the provisions of § 152.241 of this Ordinance.

(A) Any florist, greenhouse, or nursery store.

(B) Any hotel, motel, or bed & breakfast used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.

(C) Research or testing laboratories conducted within a building.

(D) Child or Adult Daycare, senior care facility, or nursery school.

(E) Surface parking lots and parking structures when not accessory to a permitted use.

(F) Low potency hemp edible and or/beverage sales. At retail stores the sale of Lower-Potency Hemp Edible and/or beverage sales shall be a conditional use when sold as an accessory to retail sales as they are defined in MSA 342.01 if the sale of such products will occur within 700 feet of a school, or if sale of such products will occur within 400 feet of a licensed daycare, public park, or residential treatment facility. In all other cases, the sale of such products when sold as an accessory to retail sales as they are defined in MSA 342.01, shall be a permitted use; (*Ord. 2025-B, passed 03-10-2025*)

§ 152.092 PERMITTED ACCESSORY USES.

The following uses shall be permitted accessory uses within the General Business District (B-1).

(A) Any accessory building or use in association with any permitted or conditionally permitted use subject to the provisions of § 152.178 of this Ordinance.

§ 152.093 HEIGHT, AREA, AND YARD REGULATIONS.

No building shall be erected or enlarged unless the following minimum requirements are met:

(A) *Height Requirements.* No permitted or conditionally permitted building shall be erected or enlarged to exceed thirty-five (35) feet in height.

(B) *Front Yard.* There shall be a minimum front yard of twenty (20) feet from the property line. In the event the building is located on a lot at the intersection of two (2) or more roads, such lot shall have a front yard abutting each road.

(C) *Side Yard.* There shall be a minimum side yard of seven (7) feet from the property line adjacent to any residential zoning district. In all other cases, no side yard shall be required.

(D) *Rear Yard.* There shall be a minimum rear yard of twenty (20) feet from the property line adjacent to any residential zoning district. In all other cases, no rear yard shall be required.

(E) *Lot Area.* No minimum lot size is required; however, the lot size shall be adequate to meet the setback, yard and other requirements of this Ordinance.

§ 152.094 EXCEPTIONS.

(A) *Yard Requirements.* Certain lots and uses are exempted from meeting yard requirements. These exceptions are listed in § 152.160 of this Ordinance.

(B) *Height Requirements.* Certain lots and uses are exempted from meeting height requirements. These exceptions are listed in § 152.164 of this Ordinance.

§ 152.095 GENERAL REGULATIONS.

(A) *Off-street Parking.* Regulations are set forth in §§ 152.195 through 152.208 of this Ordinance.

(B) *Loading Regulations.* Regulations are set forth in §§ 152.220 through 152.222 of this Ordinance.

(C) *Sign Regulations.* Regulations for signage are set forth in § 152.177 of this Ordinance.

(D) *Additional Regulations.* Additional general regulations are set forth in §§ 152.175 through 152.181 of this Ordinance.

CENTRAL BUSINESS DISTRICT (B-2)

§ 152.105 PURPOSE.

The Central Business District (B-2) comprises the downtown section of the city, which is called the Central Business District. The use of land is intensive, and this is one of the main determinants of the vitality of the Central Business District. It is the purpose of these regulations to encourage such intensity of use and to exclude activities which have a negative effect upon the proper functioning of the Central Business District.

§ 152.106 PERMITTED USES.

The following uses shall be permitted within the Central Business District (B-2):

(A) *Retail Stores.* Primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the scale of such merchandise.

- (1) Any grocery store, meat market, supermarket, fruit market or bakery.
- (2) Any pharmacy or health equipment stores.
- (3) Any apparel, jewelry, gift, toy, novelties, variety, department, antique, sporting goods, or souvenir stores.
- (4) Any hardware store or lumber, heating and plumbing shops and similar construction material sales, service, or rental facilities.
- (5) Any candy, ice cream, and confectionary stores.
- (6) Any caterers.
- (7) Any furniture, home furnishings, or appliance stores.
- (8) Any hobby shops or art supply stores.
- (9) Interior decorators.
- (10) Liquor Stores
- (11) Locksmiths
- (12) Video sales and rental
- (13) Any electronics store
- (14) Stationary, printing, or newspaper press

(B) *Personal Services.* Generally involving the care of the person or their personal effects:

- (1) Any cleaning or laundry establishment, self-service laundry including any pressing, cleaning, or garment repair.
- (2) Any dressmaking, millinery, tailoring or shoe repair shop.
- (3) Any beauty shop or barber shop.

(4) Any photographic studio.

(5) Any restaurants, bar, club/lodge with or without liquor. No production of alcohol shall be permitted in conjunction with such use.

(6) Pet grooming.

(7) Fitness Centers.

(C) *Administrative, Business or Professional Offices.*

(1) Any bank or savings and loan institution.

(2) Any insurance or real estate agent or broker.

(3) Any professional office including any physician, dentist, chiropractor, engineer, architect, lawyer, or recognized profession.

(4) Any veterinary clinic where there are no outside runs or kennels.

(D) *Entertainment and Recreation Establishment.* Any theater, dance hall, bowling alley or pool or billiard hall.

(E) *Repair Services.*

(1) Any electrical repair shops.

(2) Any watch, clock or jewelry repair.

(3) Any reupholster and furniture repair.

(4) Any repair service carried on in conjunction with any permitted use.

(F) *Business Services.* Any duplicating, printing, addressing, blueprinting, photocopying, mailing or stenographic shops. Any building materials sales or contractor's office provided such uses shall be conducted wholly within an enclosed building.

(G) *Miscellaneous Uses.*

(1) Any utility facility necessary for local services.

(2) Any residence except that such residence shall not occupy the front twenty (20) feet of the first floor street frontages.

(3) Funeral Home.

§ 152.1061 CONDITIONAL USES.

The following uses may be allowed in the Central Business District (B-2) subject to obtaining a Conditional Use Permit in accordance with the provisions of § 152.241 of this Ordinance.

(A) Any florist, greenhouse, or nursery store.

(B) Research or testing laboratories conducted within a building.

- (C) Child or Adult Daycare, senior care facility, or nursery school.
- (D) Surface parking lots and parking structures when not accessory to a permitted use.
- (E) Any small engine repair or service.

(F) Low potency hemp edible and or/beverage sales. At retail stores the sale of Lower-Potency Hemp Edible and/or beverage sales shall be a conditional use when sold as an accessory to retail sales as they are defined in MSA 342.01 if the sale of such products will occur within 700 feet of a school, or if sale of such products will occur within 400 feet of a licensed daycare, public park, or residential treatment facility. In all other cases, the sale of such products when sold as an accessory to retail sales as they are defined in MSA 342.01, shall be a permitted use(*Ord. 2025-E, passed 03-10-2025*)

§ 152.107 PERMITTED ACCESSORY USES.

The following uses shall be permitted accessory uses within the Central Business District (B-2).

(A) Any accessory building or use in association with any permitted or conditional use subject to the provisions of § 152.178 of this Ordinance.

§ 152.108 HEIGHT, AREA, AND YARD REGULATIONS.

No building shall be erected or enlarged unless the following minimum requirements are met:

(A) *Height Regulations.* No permitted or conditionally permitted building shall be erected or enlarged to exceed seventy (70) feet in height.

§ 152.109 EXCEPTIONS.

Certain lots and uses are exempted from meeting the yard and height requirements. These exceptions are listed in §§ 152.160 and 152.164 of this Ordinance.

§ 152.110 SPECIAL REQUIREMENTS.

The following requirements shall apply to all uses in this district, except that legal non-conforming uses may continue at the same performance level at which they operated before they became nonconforming in relation to this Ordinance.

(A) *Expansion of the Central Business District (B-2).* The Central Business District applies only to land located in the downtown. The Central Business District is not intended for other locations in the city. The Central Business District is not intended for other locations in the city. The Central Business District may be expanded through rezoning, but only through an expansion of the existing district boundaries.

(B) *Enclosure of Uses.* Every use, unless expressly exempted by this Section, shall operate entirely within a completely enclosed structure. The temporary or incidental display of products sold on the premises shall be exempt from this requirement.

(C) *Noise Limitations.* There shall be no noise beyond the lot boundary upon which a business is located, except for normal car and pedestrian activity.

§ 152.111 GENERAL REGULATIONS.

(A) *Off-street Parking.* Regulations are set forth in §§ 152.195 through 152.208 of this Ordinance.

(B) *Loading Regulations.* Regulations are set forth in §§ 152.220 through 152.222 of this Ordinance.

(C) *Sign Regulations.* Regulations for signage are set forth in § 152.177 of this Ordinance.

(D) *Additional Regulations.* Additional general regulations are set forth in §§ 152.175 through 152.181 of this Ordinance.

HIGHWAY BUSINESS DISTRICT (B-3)

§ 152.112 PURPOSE.

The B-3 Highway Business District is designed and intended to provide for automobile oriented commercial developments within the vicinity of streets with functional classifications of either arterials or major collectors. Such commercial developments are generally characterized by large parking areas. The district also encourages a broad range of business and light industrial activities.

§ 152.113 PERMITTED USES.

Except as specifically limited herein, the following uses are permitted in the B-3 Highway Business District. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment:

(A) Automobile service stations and car washes.

(B) Automobile glass, muffler, and upholstery repair services.

(C) Automobile parts and accessory sales.

(D) Automobile repair garages, including automobile glass, muffler, tire, and electronics installation.

(E) Automobile sales (new and used) and automobile storage. Outside display and storage of automobiles is permitted.

(F) Banks and savings and loans, including drive-in facilities.

(G) Boat sales and service, not including wrecking or dismantling.

(H) Bowling alleys and billiard parlors. Low potency hemp edible and or/beverage sales. At bowling alleys and billiard parlors the sale of Lower-Potency Hemp Edible and/or beverage sales shall be a permitted use when sold as an accessory to retail sales as they are defined in MSA 342.01; (*Ord. 2025-D, passed 03-10-2025*)

(I) Bus depots, including ticket offices.

(J) Catalog and mail order services.

(K) Clubs and lodges. Low potency hemp edible and or/beverage sales. At clubs and lodges the sale of Lower-Potency Hemp Edible and/or beverage sales shall be a permitted use when sold as an accessory to retail sales as they are defined in MSA 342.01; (*Ord. 2025-D, passed 03-10-2025*)

(L) Convenience store. Low potency hemp edible and or/beverage sales. At convenience stores the sale of Lower-Potency Hemp Edible and/or beverage sales shall be a permitted use when sold as an accessory to retail sales as they are defined in MSA 342.01; (*Ord. 2025-D, passed 03-10-2025*)

- (M) Dairy product store.
- (N) Funeral home.
- (O) Hotels and motels.
- (P) Meeting halls.
- (Q) Motorcycle sales.
- (R) Newsstands.
- (S) Pet stores.
- (T) Radio and television broadcasting, including transmitters and studios.

(U) Restaurants and other eating and drinking establishments. Low potency hemp edible and or/beverage sales. At convenience stores the sale of Lower-Potency Hemp Edible and/or beverage sales shall be a permitted use when sold as an accessory to retail sales as they are defined in MSA 342.01; (*Ord. 2025-D, passed 03-10-2025*)

- (V) Secondhand stores.
- (W) Surface parking lots and parking structures or garages.
- (X) Theaters, excluding drive-ins.
- (Y) Tire sales and supply stores.
- (Z) Upholstery shops.

§ 152.114 CONDITIONAL USES.

Except as specifically limited herein, the following uses may be allowed in the B-3 Highway Business District subject to obtaining a conditional use permit in accordance with the provisions of § 152.241 of this chapter. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment:

- (A) Any use that exceeds thirty thousand (30,000) square feet of gross floor area.
- (B) Collection of recyclable materials at temporary locations.
- (C) Community convention centers.
- (D) Drive-in facilities, accessory to a principal use, unless specifically permitted above.
- (E) Government institutions.
- (F) Light manufacturing and assembly, subject to the special requirements set forth in § 152.115 of this Ordinance.
- (G) Shopping malls.
- (H) Self-service storage facility.

(I) Shipping and outside storage when accessory to a permitted or conditionally permitted use.

(J) Sport arenas and stadiums.

(K) Other commercial and residential uses determined by the Planning Agency to be of the same general character as the permitted and conditional uses above, and found not to be detrimental to existing uses and to the general public health, safety, and welfare.

(L) Indoor firing ranges.

§ 152.115 SPECIAL REQUIREMENTS FOR LIGHT MANUFACTURING AND ASSEMBLY.

The following special requirements shall apply to light manufacturing and assembly conducted in the B-3, Highway Business District.

(A) Outside storage may be allowed by a conditional use permit.

(B) Notwithstanding the yard requirements of this Section, light manufacturing and assembly conducted in this District shall be subject to the yard requirements of the M-1 Industrial District set forth in § 152.129 of this Ordinance.

§ 152.116 MINIMUM LOT AREA.

The minimum lot area in the B-3 Highway Business District is ten thousand (10,000) square feet.

§ 152.117 MINIMUM STREET FRONTAGE.

The minimum street frontage in the B-3 Highway Business District shall be one hundred fifty (150) feet.

§ 152.118 YARDS AND SETBACKS.

The yard and setback requirements for the B-3 Highway Business District are as follows:

(A) *Front Yard Setback.* There shall be provided a fifteen (15) foot front yard setback to an impervious parking or storage surface and/or any portion of a building.

(B) *Side Yard Setback.* There shall be provided a three (3) foot side yard setback to an impervious parking or storage surface and a six (6) foot setback to any portion of a building. The corner side yard setback to an impervious parking or storage surface and/or any portion of a building along the secondary street frontage of a corner lot shall be equal to that of the front yard setback required in this District.

(C) *Rear Yard Setback.* There shall be provided a three (3) foot rear yard setback to an impervious parking or storage surface and six (6) feet to any portion of a building.

(D) *Transitional Yard.* A transitional yard shall be provided anywhere a B-3 Highway Business District abuts a Residential District. The yard shall conform to the following requirements:

(1) The dimensions of the required transitional yard on the property located in the B-3 district shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.

(2) The transitional yard shall extend the entire length of the abutting residential zoned district boundary.

- (3) The transitional yard shall not be less than a yard required in the B-3 district.
- (4) The transitional yard shall not be required to be more than twenty (25) feet in depth.
- (5) The transitional yard shall be landscaped with trees and/or shrubs.

§ 152.119 MAXIMUM GROUND COVERAGE.

The sum total of ground area that may be covered by all structures located on the zoning lot in the B-3 Highway Business District shall not exceed seventy-five (75) percent of the lot area.

§152.120 MAXIMUM FLOOR AREA RATIO.

The maximum floor area ratio in the B-3 Highway Commercial District shall be 1.0.

§ 152.121 BUILDING DESIGN AND CONSTRUCTION.

All buildings and structures in the B-3 Highway Business District shall meet the following building design and construction standards.

(A) *Exterior Wall Finish.* All exterior wall finish on any building or structure shall be of the following materials, or a combination of the following materials.

- (1) Face brick.
- (2) Natural stone.
- (3) Precast concrete panels or units if the surfaces have been integrally treated with an applied decorative material or texture.
- (4) Other materials as approved by the Planning Agency.

(B) *Additions and Accessory Buildings.* All subsequent additions to a principal building and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

§ 152.122 EXCEPTIONS.

The following uses shall not be permitted in the Highway Business District.

- (A) Any residence.

§ 152.123 GENERAL REGULATIONS.

- (A) *Off-street parking.* Regulations are set forth in §§ 152.195 through 152.208 of this Ordinance.
- (B) *Loading regulations.* Regulations are set forth in §§ 152.220 through 152.222 of this Ordinance.
- (C) *Sign regulations.* Regulations for signage are set forth in § 152.177 of this Ordinance.
- (D) *Additional regulations.* Additional general regulations are set forth in § 152.175 through 152.181 of this Ordinance.

(Amd. Ord. 2004-C, 6/28/04)

INDUSTRIAL DISTRICT (M-1)**§ 152.125 PURPOSE.**

(A) The Industrial District (M-1) is intended to provide space to meet the location requirements of a broad range of industrial uses. These industrial uses should be encouraged to locate in areas where adequate utilities are available.

(B) Industrial uses should be designed to blend harmoniously with adjacent land uses, particularly residential uses. For this reason, industrial uses should have adequate area to provide off-street parking, off-street loading, and screening should be used to provide a visual barrier for unsightly operational characteristics.

§ 152.126 PERMITTED USES.

The following uses shall be permitted within the Industrial District (M-1):

- (A) Plant nurseries and greenhouses.
- (B) Contractor establishments and construction equipment dealers provided that material or equipment is not stored in required front yard.
- (C) Cartage, express, or hauling establishments.
- (D) Coal and building material storage and wholesale, provided that materials are not stored in required front yard.
- (E) Bulk storage of petroleum products.
- (F) Printing plants.
- (G) Bottling works.
- (H) Radio and television broadcasting stations and towers.
- (I) Research laboratories.
- (J) Warehouses.
- (K) Repair services or businesses, including automobile repair garages, provided that outdoor storage of material or items to be repaired are not within the required front yard.
- (L) Utilities, including railroad terminal facilities.
- (M) Laundries and dry-cleaning plants.
- (N) Kennels, animal hospitals, and veterinary offices, provided that outside runs and kennels are not within four hundred (400) feet of any residential zoning district.
- (O) Industrial plants manufacturing or assembling the following:
 - (1) Boats.
 - (2) Small metal products such as bolts, nuts, screws, washers, rivets, nails, etc.

- (3) Clothing.
- (4) Drugs and Medicines.
- (5) Electrical equipment.
- (6) Glass products from previously manufactured glass.
- (7) Furniture and wood products.
- (8) Plastic products for production of finished equipment.

(P) Those uses allowed as permitted uses within the B-3 Highway Business District so long as they are within one thousand (1,000) feet of Main Street South.

§ 152.127 CONDITIONAL USES.

The following uses may be allowed in the Industrial District (M-1) subject to obtaining a Conditional Use Permit in accordance with the provisions of § 152.241 of this Ordinance.

- (A) Ammonia, bleaching powder, or chlorine manufacture.
- (B) Asphalt manufacture or refining.
- (C) Asphalt mixing plant.
- (D) Automobile wrecking yard or junk yard.
- (E) Cement or cinder block manufacture.
- (F) Creosote treatment or manufacture.
- (G) Fat rendering or lard refining.
- (H) Fertilizer manufacturing from organic materials or bone distillation.
- (I) Gelatin or glue processing involving recovery from fish or animal products.
- (J) Glucose, dextrin, or starch manufacture.
- (K) Incineration, reduction, or dumping of offal, dead animals, garbage, or refuse on a commercial basis, and including loading and transfer platforms.
- (L) Iron, steel, brass, or copper foundry.
- (M) Metal stamping.
- (N) Paint, oil, shellac, varnish, or turpentine manufacture.
- (O) Sauerkraut or pickle, etc. manufacture.
- (P) Stockyards.

(Q) Other activities and manufacturing plants having performance characteristics similar to those listed in this Section.

(R) Those uses allowed as conditional uses within the B-3 Highway Business District so long as they are within one thousand (1,000) feet of Main Street South.

(S) Cannabinoid and/or hemp derived product manufacture or retail sale as defined in Minnesota Statutes Chapter §342.01, and so long as said industry complies with Janesville City Code §109 pertaining to the Licensing and Establishing of said industry (*Ord. 2025-E, passed 03-10-2025*)

§ 152.128 PERMITTED ACCESSORY USES.

The following uses shall be permitted accessory uses within the Industrial District (M-1):

(A) Any accessory building or use in association with any permitted or conditionally permitted use subject to the provisions of § 152.178 of this Ordinance.

§ 152.129 HEIGHT, AREA, AND YARD REGULATIONS.

No building shall be erected or enlarged unless the following minimum requirements are met:

(A) *Height Requirements.* There shall be no limitation of height, except that a building shall be set back from the required yard line one (1) foot for each foot of building height above thirty-five (35) feet where such required yard is contiguous to or across the street from any Residential Zoning District.

(B) *Front Yard.* There shall be a minimum front yard of twenty-five (25) feet from the property line. In the event the building is located on a lot at the intersection of two (2) or more roads, such lot shall have a front yard abutting each such road.

(C) *Side Yard.* Every building, except buildings on corner lots, shall have two (2) side yards. Each side yard shall have a width of not less than six (6) feet from the property line.

(D) *Rear Yard.* There shall be a minimum rear yard of twenty-five (25) feet from the property line.

(E) *Minimum Lot Area.* The minimum lot area required in the Industrial District (M-1) is ten thousand (10,000) square feet.

§ 152.130 ADDITIONAL REQUIRMENTS.

The following requirements shall apply to all uses in this District, except that legal nonconforming uses may continue at the same performance level at which they operated before they became nonconforming in relation to this Ordinance

(A) No residential dwelling may be built, located, enlarged, or structurally altered in this district.

§ 152.131 EXCEPTIONS.

(A) *Yard Requirements.* Certain lots and uses are exempted from meeting yard requirements. The exceptions are listed in § 152.160 of this Ordinance.

(B) *Height Requirements.* Certain lots and uses are exempted from meeting height requirements. These exceptions are listed in § 152.164 of this Ordinance.

§ 152.132 GENERAL REGULATIONS.

- (A) *Off-street Parking.* Regulations are set forth in §§ 152.195 through 152.208 of this Ordinance.
- (B) *Loading Regulations.* Regulations are set forth in §§ 152.220 through 152.222 of this Ordinance.
- (C) *Sign Regulations.* Regulations for signage are set forth in § 152.177 of this Ordinance.
- (D) All buildings in the Industrial District (M-1) must be hooked up to city water and sewer services.
- (E) Additional general regulations are set forth in §§ 152.175 through 152.181 of this Ordinance.

PLANNED UNIT DEVELOPMENTS (PUD)

§ 152.145 PURPOSE.

The purpose of this Section is to make this Ordinance flexible in relation to new development ideas and changing conditions by providing a means for considering and approving new and unusual developments, which do not meet the exact requirements of this Ordinance, but which do meet the general purpose of the Ordinance and are not detrimental to the community.

§ 152.146 DEFINITION.

A Planned Unit Development (PUD) is a tract of land which is developed as a unit under single ownership or control and which is at least two (2) acres or more in area.

§ 152.147 PROCEDURE.

Applications for Planned Unit Developments and the procedures for consideration and approval shall be the same as conditional uses as in § 152.241 of this Ordinance.

§ 152.148 EXCEPTIONS TO USE REGULATIONS.

The Planning Commission may recommend and the City Council may authorize that there be in part of the area of a Planned Unit Development and for the duration of the Development, specified uses not permitted in the zoning district in which the development is located, provided that the following requirements are met:

- (A) That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose of the development.
- (B) That the uses permitted by such exception are not of such a nature, or so located, as to exercise a detrimental influence on the surrounding land uses.
- (C) That not more than twenty (20) percent of the ground area, or of the gross floor area, of such development shall be devoted to the uses permitted by said exception.

§ 152.149 EXCEPTIONS TO BULK REGULATIONS.

The Planning Commission may recommend and the Council may authorize exceptions to the applicable bulk regulations concerning building height and required yards within the boundaries of such Planned Unit Development, provided that the Planning Commission and the Council shall find:

(A) That such exception shall be solely for the purpose of promoting an integrated site plan no less beneficial to the residents or occupants of such development, as well as of neighboring properties.

(B) The average lot area per family contained in the site, exclusive of street rights-of way, shall not be less than the lot area per family required in the district in which the development is located.

(C) In residential Planned Unit Development, all habitable rooms shall receive adequate light and air.

(D) That along the periphery of such Planned Unit Development, yard shall be provided as required by the regulations of the district in which the development is located.

***ADDITIONAL RULES FOR FRONT YARDS,
BUILDING PROJECTIONS, HEIGHT EXCEPTIONS, AND DRIVEWAYS***

§ 152.160 EXCEPTIONS FOR ESTABLISHED FRONT YARDS.

Where forty (40) percent or more of the frontage on the same side of a street between two (2) intersecting streets is developed with buildings that have a front yard greater or lesser in depth than otherwise required, new buildings shall be erected no closer to the street than the average front yard so established by the existing buildings, but may be erected using the average front yard so established. In the “B-1” and “M-1” Districts, the front yard need not exceed the specified front yard for the district.

§ 152.161 FRONT YARDS ON CORNER LOTS.

Where front yards have been established or area required on each of two (2) intersecting streets, there shall be a front yard on each side of a corner lot; however, the following exception shall be allowed:

(A) The building width of a lot of record need not be reduced to less than thirty (30) feet when the owner of such lot can show that ownership and control of any adjacent lot or lots of record are by another person.

§ 152.162 FRONT YARDS ON THROUGH LOTS.

In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one (1) of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard patterns, the Zoning Administrator may waive the requirement for the normal front yard and substitute therefor a yard requirement which shall not exceed the average of the yards provided on adjacent lots.

§ 152.163 BUILDING PROJECTIONS.

The following rules shall apply to building projections into required yards:

(A) An enclosed balcony, fire escape, unenclosed and uncovered porch, or metal awning may project into a required front or rear yard for a distance not exceeding ten (10) feet.

(B) The aforementioned projections as well as egress windows and window wells may encroach into a required side yard not exceeding three (3) feet. Projections shall not encroach upon any easement.

(C) Sills, belt courses, cornices, eaves, and ornamental features may project into required yards for a distance not exceeding one (1) foot.

(D) An enclosed vestibule containing not more than forty (40) square feet may project into a front yard for a distance not exceeding four (4) feet.

§ 152.164 HEIGHT EXCEPTIONS.

The following rules shall apply to building height exceptions:

(A) The following may exceed the maximum height regulations when erected in accordance with all other laws of the City:

- (1) Chimneys.
- (2) Cooling towers.
- (3) Elevator bulkheads.
- (4) Fire towers.
- (5) Gas tanks.
- (6) Lighthouses.
- (7) Solariums.
- (8) Solar Collectors.
- (9) Steeples.
- (10) Penthouses.
- (11) Stacks.
- (12) Stage towers or scenery lofts.
- (13) Tanks.
- (14) Water towers.
- (15) Ornamental towers and spires.
- (16) Wireless television or radio towers.
- (17) Necessary mechanical appurtenances.

(B) Public, semi-public, or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty (60) feet and churches and temples may be erected to a height not exceeding seventy-five (75) feet when the required side and rear yards are each increased by one (1) foot for each foot of additional building height above the height regulations for the district in which the building is located.

§ 152.165 REGULATION ON DRIVEWAYS IN RESIDENTIAL DISTRICTS

Definitions. For the interpretation of this ordinance, the following terms shall have the meanings as written:

- (1) “Curb Cut” means an opening along a street curb line or pavement edge where vehicles may enter and leave the roadway.

(2) “Driveway” means a paved or otherwise delineated area on private property for the operation of automobiles and other vehicles to provide access to a property.

(A) *Construction Permit Required.* It shall be unlawful for any person to cut, break out, or to remove any curb for a driveway along a street or alley within the R-1, R-2, and R-3 Zoning Districts without first obtaining a permit from the City Administrator. Such permit application shall be in writing and contain information showing the type of construction, the width of the proposed driveway, the location of such driveway on the property, the address of the property in question, and such other information as may be required in the discretion of the City Administrator. For the purposes of this Chapter, the City Administrator may designate another member of City Staff to handle such applications.

(1) Issuance of Permit. Such permit shall be issued by the City Administrator if he or she has determined that the applicant has complied with terms of this ordinance. The City Administrator shall have the authority to refuse to issue a permit when, in the Administrator’s judgment and discretion, the requested construction would pose an unreasonable hazard to the public. Such decision may be appealed in writing by the applicant to the City Council. Any such appeal must be filed with the City Administrator within 14 days of denial. In the event that no such appeal is timely filed, the decision of the City Administrator then becomes final.

(2) Permit Fees. Fees charged for permits issued for the construction of driveways shall be established from time to time according to the City’s Fee Schedule.

(C) *Revocation of Permit.* A permit issued under the provision of the Section may be revoked by the City Administrator when the construction or activity authorized by the permit is not being performed according to the terms of the permit or this Section.

(1) Notice of such revocation, with a description of the facts supporting such revocation, shall be mailed or delivered to the person named in the permit at the address listed in the permit.

(2) All work shall cease upon receipt of the notice of revocation.

(3) Any person whose permit is revoked as set forth herein may appeal that revocation to the City Council. Any such appeal must be filed with the City Administrator within 14 days of denial. In the event that no such appeal is timely filed, the decision of the City Administrator then becomes final.

(D) *Construction Requirements.* The following requirements shall be followed for all driveways in the City:

(1) All driveways shall be no wider than 28 feet.

(2) All driveways shall intersect the street pavement at an angle to be approved by the City Administrator based upon the physical characteristics of the street, driveway approach, and the property being accessed. Such angle shall be as close as is reasonable and practical, in the judgment of the City Administrator, to a right angle.

(3) Any portion of the existing pavement structure disturbed during the curb cut work shall be repaired with similar materials of equal or greater structural integrity. Repair limits shall be defined by right angle saw cuts so orientated to provide the least noticeable surface patch.

(4) The constructed street shall not be disturbed or excavated in the process of constructing the driveway unless previous approval, in writing, by the City Administrator has been given.

(E) *Variiances.* The City Council is hereby authorized to grant Variiances from the application of the

provisions of this Section upon a determination that the following conditions are present:

- (1) The exception or Variance desired arises from a peculiar physical condition not ordinarily existing in similar properties in the City or is due to the nature or the property.
- (2) The exception or Variance desired is not against the public interest, particularly safety.
- (3) The granting of the Variance will not adversely affect the rights of adjacent property owners.
- (4) The application of the terms of this Section will work unnecessary hardships on the property owner and a Variance would be in the best interest of the property as a whole.
- (5) The granting of the Variance will not change the general character of the adjacent properties.

(F) Compliance Exceptions. All driveway construction occurring after the effective date of this Section shall be in compliance with the terms of this Section. Any driveways currently in existence when this ordinance is passed shall be deemed legally non-conforming (also known as “grandfathered”) until that driveway is replaced in its entirety.

(G) Street and Utility Reconstruction Projects. During reconstruction projects approved by the City Council, current driveway widths shall be replaced as they were prior to the project. If property owners request a change in the current width of the driveway, the additional cost of the new driveway will be borne by the property owner and all provisions of this Section shall apply. (*Ord. 2020-B, passed 11-09-2020*)

GENERAL REGULATIONS

§ 152.175 COMPLIANCE REQUIRED.

The guiding of land development into a compatible relationship of uses depends upon the maintenance of certain standards. In the various use districts, the permitted accessory and conditional uses shall conform to the standards enumerated in this Section.

§ 152.176 HOME OCCUPATIONS.

Home occupations are permitted in conjunction with any residential use subject to the following limitations and restrictions:

(A) No more than one (1) person other than the members of the family occupying the premises shall be employed in conjunction with a permitted home occupation;

(B) The home occupation shall be incidental and subordinate to the use of the premises for residential purposes;

(C) Floor area devoted to the home occupation shall not exceed twenty-five (25) percent or five hundred (500) square feet of the gross floor area of the residence, whichever is lessor;

(D) The home occupation shall be conducted wholly within the dwelling. There shall be no exterior storage of materials used in conjunction with the home occupation;

(E) No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located;

(F) Only one (1) non-illuminated sign not to exceed two (2) square feet shall be allowed in conjunction with the home occupation. Such sign shall not be allowed in the required front yard;

(G) No equipment or process shall be used in such home occupation to create noise, vibration, glare, fumes, odors, or electrical interference's detectable off the premises;

(H) The home occupation shall not be objectionable to neighbors due to hours of operation;

(I) There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling.

(J) Any Home Occupation which does not comply with the conditions established in this section must obtain a Conditional Use Permit or Interim Use Permit in accordance with the provisions of § 152.241 of the Zoning Ordinance.

§ 152.177 SIGNS.

(A) *Purpose.* The purpose of this ordinance is 1) to preserve and protect the public safety, comfort and welfare of users of streets and sidewalks in the City of Janesville by regulating signs of all types, 2) to enhance community appearance, reduce visual clutter and blight, promote recreational value of public travel and the economic development of the City of Janesville, 3) to limit the size, number and location of signs which may obstruct the vision of motorists, create distractions and increase traffic accidents, and 4) to acknowledge the appropriate display of signs as necessary to public service and to the conduct of competitive commerce.

(B) *Permit Required.* It is unlawful for any person to maintain, install, erect, re-erect, relocate or modify any sign without first obtaining a permit except as provided herein.

(C) *Exemptions.* No permit shall be required for the following signs; provided however, that all Signs herein exempted from the permit requirements shall conform with all other requirements of this Section:

(1) Permanent window Signs. Such Signs shall maintain a minimum of fifty (50) percent of the area of the window in which the Sign is placed, mounted or painted to remain free from signage.

(2) Signs having an area of six (6) square feet or less.

(3) Signs erected by a government unit.

(4) Signs which are entirely within a building and not visible from outside of said building.

(5) Service Club Signs.

(6) Memorial signs or tablets, names of buildings and date of erection when cut into or attached to any masonry surface or noncombustible material within the building façade.

(7) Signs denoting employment opportunities within said property. Such signs shall not exceed twenty-four (24) square feet.

(8) Signs which denote the location of an office, delivery or service area within a business. Such Signs shall not exceed eight (8) square feet.

(9) Address Signs.

(10) Except as otherwise provided in this Section, the owner of any Sign which is otherwise allowed may substitute or change the message on such Sign without any additional approval or permitting so long as the location, configuration and area of the Sign remain the same.

(11) Holiday signs or displays which contain or depict messages pertaining to a national or state holiday and no other material.

(D) *General Provision.*

(1) *Electronic Signs.* One (1) Electronic Sign per property shall be permitted. Electronic signs shall only be permitted within residential districts by a church, public or private institution, apartment building, hospital, nursing or assisted living facility, City subdivision or recreational facility. Electronic signs are allowed on a limited basis as further stated herein subject to obtaining a Conditional Use Permit.

(a) No permit will be considered without written approval from all residential property owners of record within a 200 foot radius from the proposed placement of the sign. Residential properties shall refer to properties in which the primary use is residential and not based upon the district in which the property resides.

(b) Any permit for such signs shall include a maximum number of displays per cycle for the structure. No more than six (6) displays per minute shall be allowed, and each display shall not change more frequently than once every ten (10) seconds.

(c) Such displays shall contain static messages only, changed instantaneously, through dissolve or fade transitions, or other subtle transitions that do not have the appearance of moving text or images. In any event, such signs may not have movement, or the appearance of or illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement of any illumination or the flashing, scintillating, or varying of light intensity.

(d) All such signs shall be programmed to automatically freeze in a single display in the event of a malfunction or computer/system error.

(e) The Janesville Police Department shall be provided with an on-call contact person and phone number for each permitted illuminated sign. The contact person must have the ability and authority to make immediate modifications to the displays and lighting levels should the need arise. In the event the contact person is unobtainable or unresponsive, the permit holder grants to the Police Department or designated City staff the authority to access and disable the sign in cases of emergency or when the sign poses a threat to public safety.

(f) Stationary electronic window signs, which are kept constant in intensity when in use, and do not exhibit sudden or marked changes in lighting effects, may be allowed up to a maximum of four (4) square feet in area in nonresidential zoning districts and do not require a permit.

(g) Electronic signs must be installed in accordance with the current electrical code and a separate permit from the regulating authority must be obtained prior to placement.

(2) *Illuminated Signs.* One (1) Illuminated Sign per street frontage shall be permitted. Illuminated signs shall only be permitted within residential districts by a church, public or private institution, apartment building, hospital, nursing or assisted living facility, City subdivision or recreational facility. Such sign shall have a shielded light source and of exceed the maximum light intensity of five hundred nits between dusk to dawn as measured from the sign's face at maximum brightness.

(3) *Monument Signs.* One (1) Monument Sign per street frontage shall be permitted. Monument signs shall only be permitted within residential districts by a church, public or private institution, apartment building, hospital, nursing or assisted living facility, City subdivision or recreational facility. Such Sign shall not exceed forty-eight (48) square feet in area and shall not exceed twelve (12) feet in width or six (6) feet in height.

(4) *Off-Premise Advertising Signs (Billboards)*. Off premise advertising signs may be erected on ground or wall locations, but not on roof locations, in the “B-1”, “B-2”, “B-3” or “M-1” Districts only, subject to the following regulations:

(a) *Spacing*. Off-premise advertising signs on the same street, facing the same traffic flow shall not be placed closer together than two hundred (200) feet.

(b) *Double face Signs*. Off-premise advertising signs can be double face and each side shall be considered as facing traffic flowing in the opposite direction.

(c) *Size, height and length of off-premise advertising signs*. In all zoning districts in which off-premise advertising signs are permitted, such signs shall not exceed five hundred (500) square feet in total area including all faces, except on back-to-back signs. Non off-premise signs shall not exceed fifty-five (55) feet in length. No off-premise sign shall exceed thirty-five (35) feet in height.

(d) *Setback*. Off-premise advertising signs shall conform to the districts they are located in.

(e) *Exclusionary Areas*. No off-premise advertising signs shall be directed or maintained within one hundred (100) feet of any residential zone, church, school, playground, or park.

(f) *Inspections*. All signs for which a permit is required shall be subject to inspection by the Zoning Administrator. The Administrator, or his duly authorized representative, may enter upon any property or premises to ascertain whether the provisions of this Ordinance are being obeyed. Such entrance shall be made during business hours unless an emergency exists. The city shall order the removal of any sign that is not maintained in accordance with the maintenance provisions of this Section. Notice shall be given to the city of any change in sign owner. (*Amd. Ord. 2004-C, 6/28/04*)

(5) *Signs within the Right-of-Way*. No signs shall be installed or projected into the City Right-of-Way except within the B-2 Central Business District. Such sign shall have no less than eight (8) feet of clearance between the sidewalk elevation and the lowest point of the projecting sign and shall not project from the building face more than six (6) feet.

(6) *Election Sign*. Election signs are permitted in all districts provided such signs are removed within ten (10) days following the election. No election signs shall be permitted more than two (2) months preceding the election the sign relates to. In state general election years, elections signs shall be permitted from August 1 until ten days following the state general election. (*Amd. Ord. 2017-A, 3/27/17*)

§ 152.178 ACCESSORY USES AND STRUCTURES.

Accessory uses and structures shall be permitted in association with a principal use or structure in the R-1, R2, and R-3 Districts subject to the following conditions (*Ord. 2025-F, passed 05-12-2025*):

(A) *Location of Accessory Buildings in Required Yards*.

(1) Accessory buildings are prohibited in any required front yard or side yard setback:

(a) Accessory structures shall be located behind the front building line of the principal building and there shall be a minimum front yard of twenty-five (25) feet from the property line. In the event the building is located on a lot at the intersection of two (2) or more roads, such lot shall have a front yard abutting each such road.

(b) *Side Yard.* Every lot, except corner lots, shall have (2) side yards. Each side yard shall have a width of not less than six (6) feet from the property line. If the entrance to the accessory structure is fronting a public right-of-way, the minimum side yard shall be twenty (20) feet.

(c) Accessory structures may be built in an adjacent empty lot, provided that both lots have the same property owner (refer to §152.031-G & §152.051-K). Structures built on adjacent lots must be constructed behind the front building line of neighboring residential structures, including the principal structure.

(2) Accessory buildings may not be located within an identified drainage or utility easement.

(3) There shall be a minimum rear yard of six (6) feet from the property line. If the entrance to the accessory structure is fronting a public right-of-way the minimum rear yard shall be twenty (20) feet.

(4) An accessory building attached to a principal building, such as an attached garage, must comply with all the setback and height requirements applicable to the principal building. Detached garages are considered an accessory (building) use.

(5) Unattached garages that have an overhead door facing the alley must be a minimum of twenty-five feet from any alley.

(B) Dimensional Limits.

(1) Accessory buildings shall not exceed a height of twenty (20) feet, or the height of the principal structure, whichever is less.

(2) Accessory buildings shall not have sidewalls that are greater than nine (9) feet in height.

(3) No more than two (2) detached accessory buildings may be located on one property, and

(4) The total building area of accessory structures per lot cannot exceed 2,000 square feet or fifty percent (50%) of required rear yard space, whichever is less.

(C) Minimum Structural Requirements. The roof style and exterior siding or paint shall be harmonious to that of the principal use, including materials and color as prescribed by the Zoning Administrator.

(D) Living Quarters. There shall be no living quarters maintained in any accessory structure.

(E) Opt-out of Minnesota Statutes, §462.3593. Pursuant to authority granted by Minnesota Statutes, §462.3593, subdivision 9, the City of Janesville opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings. (Ord. 2016-C, adopted 7/25/2016)

Accessory Uses and Structures in Any Other Zoning District. Accessory uses or structures in any zoning district other than “R-1”, “R-2”, or “R-3” shall be on the same lot as the principal use or structure and located subject to the development standards of the zoning district in which it is located.

§ 152.179 FENCES AND SCREENING.

(A) Fences and hedges in the “R-1”, “R-2”, and “R-3” Residential Districts are permitted subject to the following conditions:

(1) Fences or hedges may not exceed four (4) feet in height in the required front yard, except that fences in the Industrial District may not exceed a height of eight (8) feet in the required front yard.

(2) Fences or hedges may not exceed eight (8) feet in height in the required side or rear yard adjacent to the main building and projected to the required front yard.

(3) In any residential district, no fence, structure, or planting, shall be built or maintained in such a manner that visibility is obstructed from intersecting streets within eighty (80) feet in each direction from the intersection of the street centerlines.

(4) Fences or walls in any district must be constructed of stone, brick, finished wood, or chain link, except that in the Industrial Districts barbed wire may be used above a height of six and one-half (6 ½) feet when incorporated with a permitted fence or wall. The finished side of the fence, or that side of the fence without exposed supports or posts, shall face the neighboring properties or streets.

(5) All fences and walls must be maintained in safe and good condition at all times. Any damaged or missing element of any fence or wall shall be replaced immediately.

(6) Fences or walls in any district shall not be placed directly on the property line or upon any easement and shall be located at least one (1) foot inside the property line of the owner of the fence or wall. The owner shall maintain the opposite side of the fence or wall up to the neighboring property line.

(7) No fence or hedge shall enclose or prohibit access to any water, electric, or gas meter.

(B) *Screening.* Certain activities shall be screened by structures, walls, fences, or landscaping so that these activities will not be detrimental to adjacent land. Screening shall be placed subject to the following conditions:

(1) Where any business or industrial use is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential area, but not on that side of a business or industry considered to be the front as determined by the Zoning Administrator.

(2) The screening required herein shall consist of a fence, wall, or landscaping of at least fifty (50) percent opacity not less than five (5) feet nor more than eight (8) feet in height but shall not extend within fifteen (15) feet of any street or driveway. The screening shall be placed along the property lines or in case of screening along a street, fifteen (15) feet from the street right-of-way with landscaping between the screening and the pavement.

§ 152.180 GRADING AND ALTERATION OF LOTS.

(A) *Purpose.* A grading plan shall be required for land-disturbing activity that would require the uncovering or distributing of material in excess of any of the following measurements:

- (1) Five thousand (5,000) square feet;
- (2) Four hundred (400) cubic yards undeveloped land, or 40 cubic yards developed land;
- (3) Any new development that will create a change in slope of 5% for the lot of record.

(B) *Plan Review.* The property owner or developer shall submit, at their cost, the grading plan to the City Administrator's Office. The City Engineer shall review the grading plan within 60 days and submit a report for the record. The report will approve the plan and, if not approved, offer suggestions for improvements in the Plan.

(C) *Exceptions.* No grading plan is required for land disturbances under the amounts specified above or for the following:

- (1) Any emergency activity that is immediately necessary for the protection of life, property or natural resources;
- (2) General establishment of new construction lawns, or the addition of four or fewer inches of topsoil;
- (3) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(Ord. 2021-A, passed 03-22-2021)

§ 152.181 ENVIRONMENTAL REVIEW PROGRAM.

(A) *Adoption by Reference of Certain Terms and Regulations for the Administration of the Janesville Environmental Review Program.* The provisions of the rules for the Environmental Review Program 6MCAR 3.021 to 3.047, one copy of which is on file in the office of the city clerk, are hereby adopted together with the other provisions of this Ordinance as the environmental review operating procedures this City will follow in implementing the provisions of Minnesota Statutes Chapter 116D, relating to the Environmental Review Program and any rules adopted thereunder by the Minnesota Environmental Quality Board. All terms used in this Ordinance shall have the same meaning as the terms used in Chapter 116D and the rules adopted thereunder.

(B) *Cost of Preparation and Review.*

(1) *Information to be provided.* The applicant for a permit for any action for which environmental documents are required either by state law or rules or by the city council shall supply in the manner prescribed by the Janesville City Clerk all unprivileged data or information reasonably requested by the city that the applicant has in his possession or to which he has reasonable access.

(2) *Environmental Assessment Worksheets.* The applicant for a permit for any action for which an environmental assessment worksheet (EAW) is required either by state law or rules or by the city council shall pay all costs of preparation and review of the EAW, and, upon the request of and in the manner prescribed by the city clerk shall prepare a draft EAW and supply all information necessary to complete the document.

(3) *Environmental Impact Statement.* The city and the applicant for a permit for any action for which an environmental impact statement (EIS) is required shall comply with the provisions of the Rules Governing Assessment of Costs for Environmental Impact Statements, one copy of which is on file in the office of the city clerk, unless the applicant and the city council provide otherwise by a written agreement.

(4) *Payment of Costs.* No permit for an action for which an EAW or and EIS is required shall be issued until all costs of preparation and review which are to be paid by the applicant are paid, and all information required is supplied, and until the environmental review process has been completed as provided in this Ordinance and the rules adopted by reference by this Ordinance, and pursuant to any written agreement entered into by the applicant for the permit or permits and the city council under the provisions of Subdivision (E) of this Section.

(5) *Agreements concerning cost of preparation and review.* The application for a permit for any action for which an EAW or EIS is required and the city council may, in writing, agree as to a different division of the costs of preparation and review of any EAW or EIS.

(C) Administration.

(1) The city clerk shall be the person responsible for the administration of the Environmental Review Program, this Ordinance, and the rules adopted by reference by this Ordinance.

(2) The city clerk shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory. The city clerk shall also determine those proposed actions for which an optional EAW may be required under the provisions of the ordinance and shall notify the planning commission and the city council of these proposed actions.

(3) All EAW's and EIS's shall be prepared under the supervision of the city clerk, reviewed by the planning commission and reviewed and approved by the city council.

(4) When reviewing an EAW or EIS, the city clerk and the planning commission may suggest design alterations, which would lessen the environmental impact of the action. The city council may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.

(5) After an EAW is prepared, the planning commission shall review the EAW and recommend to the city council whether or not it should require the preparation of an EIS. The city council shall require an EIS when it finds under 6MCAR 3.025 that an action is major and has potential for significant environmental effects.

(D) Optional Environmental Assessment Worksheet. The City Council may, upon recommendation by the city clerk require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects. The following guidelines shall also be considered in determining whether an optional EAW shall be required:

(1) Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?

(2) Is the action likely to have disruptive effects such as generating traffic and noise?

(3) Are there public questions or controversy concerning the environmental effects of the proposed actions?

(E) Enforcement and Penalty.

(1) No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this Ordinance are completed.

(2) Any person who violates any provision of this Ordinance is guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding one-thousand dollars (\$1,000.00) or imprisonment for ninety (90) days or both. Each day that the violation is permitted to exist constitutes a separate offense.

(3) No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established by this Ordinance are fully complied with.

OFF-STREET PARKING**§ 152.195 PURPOSE**

The purpose of requiring off-street parking and of this Section is to alleviate or prevent congestion of the public

streets and so promote the safety and convenience of the public, by establishing minimum requirements for off-street parking in accordance with the use to which property is put.

§ 152.196 DEFINITION OF OFF-STREET PARKING.

An off-street parking space shall be defined for the purpose of this Ordinance as an area of two hundred (200) square feet or more, exclusive of driveways, permanently reserved and available for storage of one automobile, which is enclosed in a building or unenclosed, and is not in a public right-of-way, and which has satisfactory ingress and egress to a public street or alley.

§ 152.197 PARKING AREAS TO BE SHOWN ON APPLICATIONS.

For proposed new buildings, enlarged buildings, structures or uses, the location and size of required off-street parking spaces and their access to a public street or alley shall be shown in detail with dimensions on either the application for a Zoning Certificate or for a building permit.

§ 152.198 CENTRAL BUSINESS DISTRICT (B-2) EXEMPTED.

Off-street parking spaces shall not be required for any uses in the Central Business District (B-2). This District is exempted from the off-street parking regulations because it is impractical for individual stores in this area to provide individual parking spaces. An objective for the Central Business District (B-2) is to encourage and maintain a compact grouping of retail stores and public and semi-public services buildings for the convenience of pedestrians using these facilities. For this purpose, it is necessary to have businesses close together and not separated and scattered by individual parking areas serving only one building. Parking facilities for the Central Business District (B-2) can best be provided by public parking areas and garages located according to a comprehensive plan.

§ 152.199 PARKING REQUIREMENTS.

(A) *One and Two-Family Dwellings.* One (1) space for each dwelling unit.

(B) *Multi-Family Dwellings.* One and one-half (1 ½) parking spaces for each dwelling unit.

(C) *Retail Store or Personal Service Establishment.* Except as otherwise specified herein, one (1) space for each two hundred (200) square feet of floor area.

(D) *Furniture or Appliance Store, Hardware Store, Wholesale Establishment, Machinery or Equipment Sales and Service Business, Clothing Store, Shoe Repair or Service Shop.* Two (2) spaces plus (1) additional parking space for each three hundred (300) square feet of floor area in excess of one thousand (1,000) square feet.

(E) *Business or Professional Office, Studio, Bank, Medical or Dental Clinic.* One (1) space for each three hundred (300) square feet of floor area.

(F) *Restaurant, Night Club, Bar, Café or Similar Recreation or Amusement Establishment.* One (1) space for each one hundred (100) square feet of floor area.

(G) *Printing or Plumbing Shop or Similar Service Establishment.* One (1) space for each person employed therein.

(H) *Manufacturing or Industrial Establishment, Research or Testing Laboratory, Creamery, Bottling Plant, Warehouse or Similar Establishment.* One (1) space for each two (2) employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith.

(I) *Hotel, Motel, Tourist Home, or Lodging House.* One (1) space for each sleeping room, guest room, or suite.

(J) *Church or Temple.* One (1) space for each six (6) seats in main auditorium.

(K) *School (except High School or College).* One (1) space for each ten (10) seats in the auditorium or main assembly room or one (1) space for each classroom, whichever is greater.

(L) *Community Center, Library, Museum or Art Gallery.* Ten (10) spaces plus one (1) additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet.

(M) *Private Club, Lodge, or Fraternity.* One (1) space for every five (5) members.

(N) *Bowling Alley.* Four (4) spaces for each alley.

(O) *Mortuary or Funeral Home.* Three (3) spaces for each room used as a chapel, slumber room or parlor, or one (1) parking space for each fifty (50) square feet of floor area of assembly rooms used for service, whichever is greater.

(P) *Dance Hall, Roller Rink, Assembly or Exhibition Hall without Fixed Seats.* One (1) space for each one hundred (100) square feet of floor area used therefor.

(Q) *Hospital.* One (1) space for each four (4) beds.

(R) *Sanitarium, Convalescent Home, Nursing home, Assisted Living Facility or Similar Facility.* One (1) space for each six (6) beds.

(S) *Theatre or Auditorium (Except School).* One (1) space for each five (5) seats or bench seating spaces.

(T) *Amphitheater, Stadium or Similar Outdoor Place of Assembly.* If normally used or intended for use more than twelve (12) times each year: One (1) space for each ten (10) seats provided.

§ 152.200 RULES FOR COMPUTING THE NUMBER OF REQUIRED SPACES.

(A) In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

(B) Where fractional spaces result, the parking spaces required shall be constructed to be the nearest whole number.

(C) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.

(D) When an applicant for a building permit does not specify the exact use planned for the proposed building, the Zoning Administrator shall choose the use from Section § 152.199 in the general category of the proposed building which requires the greatest number of parking spaces.

§ 152.2001 SHARED PARKING

The Zoning Administrator may authorize a reduction in the total number of required parking spaces for two (2) or more uses jointly providing off-street parking when their respective hours of peak operation do not overlap. Shared parking shall be subject to the following conditions:

(A) **Computation.** The number of shared spaces for two (2) or more distinguishable land uses shall be determined by the following procedure:

(1) Multiply the minimum parking required for each individual use, as set forth in § 152.199, Parking Requirements, by the appropriate percentage indicated in Table 18.7, Shared Parking Calculations, for each of the six (6) designated time periods.

(2) Add the resulting sums for each of the six (6) columns.

(3) The minimum parking requirement shall be the highest sum among the six (6) columns resulting from the above calculations.

(4) Select the time period with the highest total parking requirement and use that total as the shared parking requirement.

(B) *Other Uses.* If one (1) or all of the land uses proposing to make use of shared facilities do not conform to the general land use classifications set forth in Table 18.7, Shared Parking Calculations, as determined by the Zoning Administrator, then the applicant shall submit sufficient data to indicate the principle operating hours of the uses. Based upon this information, the Zoning Administrator shall determine the appropriate shared parking requirement.

(C) *Alternative Procedure.* An application may be submitted requesting that the Zoning Administrator authorize a greater reduction in the total number of required parking spaces for two (2) or more uses where an applicant believes that Table 18.7, Shared Parking Calculations, does not adequately account for circumstances unique to the particular property or properties in question. The application shall include, at a minimum, a parking study with a detailed description of the proposed uses, their hours, of operation, their anticipated peak parking demand, and anticipated hours that such peak parking demand would occur. Based upon information demonstrating that the peak parking demand for the uses in question would not coincide, the Zoning Administrator may authorize a greater parking reduction that is authorized by Table 18.7, Shared Parking Calculations. The Zoning Administrator may impose reasonable conditions to mitigate potential negative effects.

(D) *Process.* An application for shared parking shall be submitted on a form that is approved by the Zoning Administrator.

§ 152.2002 SHARED PARKING CALCULATIONS

Table 18.7: Shared Parking Calculations

General Land Use Classification	Weekdays			Weekends		
	2:00 a.m.- 7:00 a.m.	7:00 a.m.- 6:00 p.m.	6:00 p.m.- 2:00 a.m.	2:00 a.m.- 7:00 a.m.	7:00 a.m.- 6:00 p.m.	6:00 p.m.- 2:00 a.m.
<i>Office</i>	5%	100%	5%	0%	10%	0%
<i>Retail sales & services</i>	0%	90%	80%	0%	100%	60%
<i>Restaurant (not 24 hr.)</i>	10%	70%	100%	20%	70%	100%
<i>Residential</i>	100%	60%	100%	100%	75%	90%
<i>Theater</i>	0%	40%	90%	0%	80%	100%
<i>Hotel</i>						
<i>Guest rooms</i>	100%	55%	100%	100%	55%	100%
<i>Restaurant/lounge</i>	40%	60%	100%	50%	45%	100%
<i>Conference rooms</i>	0%	100%	100%	0%	100%	100%
<i>Religious institution</i>	0%	25%	50%	0%	100%	50%
<i>Reception/meeting hall</i>	0%	70%	90%	0%	70%	100%
<i>Museum</i>	0%	100%	80%	0%	100%	80%
<i>School (grades K-12)</i>	0%	100%	25%	0%	30%	10%

§ 152.201 APPLICATION TO EXISTING BUILDINGS AND CHANGE OF USE.

Buildings existing at the time of adoption of this Ordinance, which do not meet the off-street parking requirements, may be structurally altered to the extent of fifty (50) percent of the cost of equivalent new construction, and the use of such buildings may be changed to an equally intensive or less intensive use, without providing the required off-street parking spaces. However, if such buildings are structurally altered to an extent greater than fifty (50) percent of the cost of equivalent new construction, or if the use is changed to a more intensive use, such as conversion of a single-family dwelling to an apartment or a change from a B-1 use to an M-1 use, all required off-street parking spaces shall be provided.

§ 152.202 ENLARGEMENT OF EXISTING BUILDINGS.

Buildings existing at the time of adoption of this Ordinance, which do not meet the off-street parking requirements of this Section may be enlarged to the extent of fifty (50) percent addition of floor area and need provide off-street parking for the enlargement only and not for the original building. When an existing building is enlarged to an extent greater than a fifty (50) percent addition in floor area, off-street parking spaces shall be provided for both the original building and the enlargement.

§ 152.203 EXISTING PARKING SPACES.

Accessory off-street parking spaces in existence at the time of adoption of this Ordinance may not be reduced in number below the number of required herein for equivalent new construction, or, where below the required number, may not be further reduced below the number required for equivalent new construction.

§ 152.204 LOCATION OF REQUIRED OFF-STREET PARKING SPACES.

All parking spaces required herein shall be located on the same lot or parcel with the building or use served.

§ 152.205 TRUCK PARKING IN RESIDENTIAL DISTRICTS.

In residentially zoned districts, no trucks or commercial vehicles exceeding a one (1) ton rated capacity shall be parked in open parking spaces, and no trucks or commercial vehicles exceeding a two (2) ton rated capacity shall be parked in garages accessory to residential dwellings.

§ 152.206 IMPROVEMENTS REQUIRED FOR PARKING SPACES IN ALL ZONING DISTRICTS.

(A) All off-street parking spaces shall be surfaced of concrete, bituminous, or other approved equivalent. Pursuant to 91.100 (C) (2) (a), it is permissible to park on non-impervious surfaces in the front yard only between November 15 and April 15 (*Ord 2023-B, passed 03-27-23*)

(B) For all parking areas which have five (5) or more parking spaces, bumper guards shall be provided where necessary around the boundary of the parking area to protect fences, screen plantings, and neighboring property.

§ 152.207 REQUIREMENTS FOR PARKING AREAS ADJACENT TO RESIDENTIAL DISTRICTS.

The following requirements apply to all parking areas which have five (5) or more spaces and which are adjacent to land which is zoned residential. Included in this category are parking areas which are within residential areas themselves, such as for schools, churches, and other uses, and also parking areas within the B-1, B-2, and B-3 Business Districts or the M-1 Industrial District adjacent to any Residential Districts. (*Amd. Ord. 2004-C, 6/28/04*)

(A) Parking area shall be setback seven (7) feet or more from a wide yard or a residentially zoned parcel and screened therefrom.

(B) Parking areas shall be set back five (5) feet or more from a rear yard of a residentially zoned parcel and screened therefrom. (The Board of Appeals in § 152.236 has authority to waive the requirements for parking areas adjacent to side and rear yards, with substitution of a wall for the setback)

(C) Parking shall be prohibited in a required front yard immediately across a street from a residentially zoned parcel, and screening shall be provided in front of such parking area.

(D) Lighting facilities, where provided, shall be so arranged to reflect light away from adjacent residential districts.

§ 152.208 REQUIREMENTS FOR SPECIAL USE COMMERCIAL AND INDUSTRIAL PARKING AREAS IN RESIDENTIAL DISTRICTS.

It is sometimes necessary and desirable to serve the off-street parking needs of businesses and industries with parking spaces located in adjacent residential districts. This Ordinance allows application for this under this subchapter. In addition to the regular procedures and criteria for handling Special Uses, the following additional requirements shall apply to such parking areas:

(A) The parking area must be adjacent to a commercial or industrial district and shall not extend more than one hundred fifty (150) feet away from such district. The parking area shall not be across a street from the “B-1”, “B-2, or “M-1” Districts, but may be across an alley, in which case the one hundred fifty (150) feet shall be measured from the centerline of the alley.

(B) Ingress and egress to the parking area shall be from a major street, or from a street located in a commercial or industrial district.

(C) All the requirements for yards, screening, and lighting facilities listed in § 152.207 of this Chapter shall apply to parking areas covered by this Section.

(D) No business involving the repair or service of vehicles, or sale or display thereof shall be conducted from or upon such parking areas.

(E) No signs shall be erected on the parking area, except directional signs, as permitted in residential districts.

(F) No structures shall be erected or remain on any portion of the parking areas.

(G) Parking areas shall be used only for the parking of patrons' and employees' private passenger vehicles.

OFF-STREET LOADING BERTH REQUIREMENTS

§ 152.220 PURPOSE.

The purpose of required off-street loading and of this Section is to alleviate and prevent congestion of the public streets and so promote the safety and convenience of the public by establishing minimum requirements for off-street loading in accordance with the intensity of the use of the property.

§ 152.221 SCHEDULE OF LOADING BERTH REQUIREMENTS.

All non-residential buildings, including retail, wholesale, office and industrial buildings, hereafter built, relocated or structurally altered to the extent of more than a fifty (50) percent addition in floor area, shall provide an off-street loading berth or berths in accordance with the following schedule:

(A) A building whose dominant use is the selling of goods at retail shall provide loading berths in relation to the floor area used for retail purposes as follows:

<u>Retail Floor Area</u>	<u>Berths Required</u>
5,000 - 10,000 sq. ft.	One (1)
10,000 - 20,000 sq. ft.	Two (2)
20,000 - 30,000 sq. ft.	Three (3)
Over 30,000 sq. ft.	Four (4)

(B) Manufacturing, repair, wholesale, trucking terminal or warehouse uses shall provide loading berths in relation to total floor area as follows:

Retail Floor Area	Berths Required
5,000 - 40,000 sq. ft.	One (1)
40,000 - 100,000 sq. ft.	Two (2)
Over 100,000 sq. ft.	Three (3)

(C) Other non-residential buildings, including offices, hotels, mortuaries, and institutions, having more than ten thousand (10,000) square feet of floor area, shall provide one (1) off-street loading berth.

§ 152.222 CONDITIONS.

The following conditions shall apply to the provisions of off-street loading berths:

(A) Each loading berth shall be easily accessible from a street or alley without substantial interference with traffic.

(B) Each loading berth shall be hard surfaced, or shall be surfaced with gravel, crushed stone, or similar material, with adequate dust treatment.

(C) Space allocated to required off-street loading berths may not be included in required off-street parking areas, nor shall an off-street loading berth be used for normal vehicle repair or service work.

(D) All required loading berths shall be on the same lot as the use served.

(E) Off-street loading berths abutting the side or rear yard of a residential district shall be suitably screened or fenced from view.

(F) No loading berth shall be located in a required front or side yard.

ADMINISTRATION AND ENFORCEMENT

§ 152.235 ADMINISTRATIVE OFFICIAL.

(A) *Zoning Administrator.* The Zoning Administrator shall be appointed by the Council and shall administer and enforce this Ordinance. The Zoning Administrator may delegate the enforcement of this Ordinance to any administrative official of the City and supporting staff if deemed necessary.

(B) *Duties of the Zoning Administrator.*

(1) Examine all applications pertaining to use of land, buildings, or structures, and approve same when the application conforms with the provisions of this Ordinance

(2) Notify in writing the nature of the violation as it pertains to this Ordinance and notify in writing the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.

(3) Order discontinuance of illegal use of land, buildings, or structures;

- (4) Order removal of illegal buildings or structures or of additions, alterations, or structural changes thereto;
- (5) Order discontinuance of any illegal work being done;
- (6) Maintain permanent and current records of the Zoning Ordinance, including all maps, amendments, conditional use, and variations.
- (7) Shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

§ 152.236 BOARD OF APPEALS.

(A) *Establishment of the Board.* The Janesville Planning Commission shall serve as the Board of Adjustments and Appeals, which shall be called the Board of Appeals. The decisions of the Board on matters within its jurisdiction are final subject to judicial review, and are not subject to appeal to the Council.

Any aggrieved person or persons, or any department, board, or commission of the jurisdiction or of the state shall have the right to make an appeal to the District Court on questions of law and fact. Such appeal shall be made within thirty (30) days after the receipt of the notice of the Board's decision.

(B) *Rules and Meetings.*

(1) The Board of Appeals shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(2) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be of public record and be filed in the office of the Board. Every decision of the Board shall be based upon a finding of fact which shall be reduced to writing and preserved among its records.

(C) *Duties and Powers.* The Board of Appeals has the following duties and powers with respect to this Ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.

(2) *Variances from any Official Map.* The Board of Appeals shall have the power to issue a building permit in areas where and official map, adhering to Minnesota State Statute 462.359, prohibits the issuance of said permit. The Board of Appeals may issue the permit according to the following:

(a) The owner of the land must file an appeal.

(b) The Board must find upon the evidence presented that the entire property of the appellant of which such area identified for public purposes forms a part that cannot yield a reasonable return to the owner unless such a permit is granted.

(c) The Board must find upon the evidence presented that balancing the interest of the municipality in preserving the integrity of the Official Map and of the comprehensive municipal plan and the interest of the owner of the property in the use of the property and in the benefits of ownership, the grant of such permit is required by considerations of justice and equity.

(d) If the Board of Appeals authorizes the issuance of a permit, the Council or other board of commission having jurisdiction shall have six (6) months from the date of the decision of the board to institute and if no such proceedings are started within that time, the officer responsible for issuing building permits shall issue the permit if the application otherwise conforms to local ordinances. The Board shall specify the exact location, ground area, height, and other details as to the extent and character of the building for which the permit is granted.

(D) *Public Hearings and Notice.*

(1) The Board of Appeals shall hold a public hearing on all proposed actions authorized by §§ 152.235 through 152.237 of this Ordinance.

(2) Notice shall be given at least ten (10) days in advance of the public hearing in a newspaper of general circulation in the City. The person or his agent making the appeal or the request shall be notified by mail. Notification by mail shall also be made for all property owners within three hundred fifty (350) feet of the outer boundaries of the property in question or as required by state law; however, failure of any property to receive the notification shall not invalidate the proceedings. Any party may appear in person at the public hearing, or by agent or attorney.

(E) *Authority to Impose Conditions.*

(1) In granting a permit under any of the powers conferred upon the Board, the Board may stipulate the manner in which an approved action shall be carried out, or may require other improvements, safeguards, and conditions for the protection of the health, safety, and welfare of owners and occupants of surrounding lots or the public. Conditions imposed may address compliance with the standards established by this chapter, reduction or minimization of the effect of the variance upon other properties in the area, and to better carry out the intent of the variance.

(2) Violations of conditions imposed by the Board in conjunction with approval of an action shall be deemed a violation of this Ordinance and punishable under § 152.999 of this Ordinance. The Board may revoke a variance if any conditions established by the Board as part of granting the variance request are violated, or if construction covered by the variance does not proceed within twelve (12) months of the date granting the variance.

§ 152.237 APPEALS AND VARIANCES.

(A) *Appeals.* Appeals to the Board may be taken by any person aggrieved by an officer or bureau of the governing body of the city affected by any decision of the Zoning Administrator. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days or such lesser period as may be provided by the rules of the Board, by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof along with the appropriate filing fee. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(1) *Decision of the Board.* In exercising the above mentioned powers, the Board may, so long as such action is in conformity with the terms of this Ordinance, and after the required public hearing is held, reverse or affirm, wholly or partly, or may modify the administrative order, requirement interpretation, or decision appealed from and may make such administrative order, requirement, interpretation, or decision as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.

(2) *Stay of Proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the board, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by

the Board, or by a Court of Record on application, on notice to the administrative official from whom the appeal is taken, and on due cause shown.

(B) *Variance*. Applications for Variance requests must conform to the provisions of § 152.239, subdivision (B). In addition, the applicant shall file the completed application form together with the required exhibits which include a building site development plan, evidence of ownership, and evidence or other information supplied by the applicant to demonstrate that there are practical difficulties in complying with the official controls, along with payment of a filing fee at the time of application.

The Board may authorize, upon appeal or written application, such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of this Ordinance would result in practical difficulties. For the purpose of this Ordinance, a Variance shall be defined as such in § 152.003. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in MN Statute 216C.06, subdivision 14, when in harmony with the ordinance. The Board of Appeals may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located.

(1) A Variance from the terms of this Ordinance shall not be granted by the Board unless the required public hearing is held, and unless and until all of the following findings are made by the Board:

- (a) Is the variance in harmony with the purposes and intent of the Ordinance?; and
- (b) Is the variance consistent with the Comprehensive Plan?; and
- (c) Does the proposal put property to use in a reasonable manner?; and
- (d) Are there unique circumstances to the property not created by the landowner?; and
- (e) Will the variance, if granted, alter the essential character of the locality?

(2) A certified copy of any order issued by the Board of Appeals acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance shall be filed by the Zoning Administrator with the Waseca County Recorder. The applicant is responsible to pay the recording fee. The order issued by the Board of Appeals shall include the legal description of the property involved, the owner's name, and any conditions imposed by the Board of Appeals.

(3) No application by a property owner for a variance shall be submitted to the Board of Appeals within a six (6) month period following denial of a request, except the Board may permit a new application, if in the opinion of the Board, new evidence of change or circumstances warrant it.

§ 152.238 INTERPRETATIONS AND ENFORCEMENT.

(A) It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Appeals only on appeal

from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Appeals shall be to the courts as provided by law.

(B) It is further the intent of this chapter that the duties of the City Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this subchapter and this chapter. Under this chapter, the City Council shall have only the duties of considering and adopting or rejecting proposed amendments or repeal of this chapter, as provided by law, and/or establishing a schedule of fees as stated in § 152.243 of this chapter. (*Ord. passed 1-8-01*)

§ 152.239 ZONING CERTIFICATES REQUIRED.

(A) It shall be unlawful to use or occupy, or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Zoning Certificate shall have been issued therefor by the Zoning Administrator stating that the proposed building and its use or the proposed open use of land conforms to the requirements of this Ordinance. No Zoning Certificate shall be issued, nor a building permit approved, except in conformity with the provision of this Ordinance, except after written order from the Board of Appeals.

- (1) For single-family residential uses, a building permit shall serve as a Zoning Certificate.

(B) *Applications for Zoning Certificates.* Applications for Zoning Certificates shall be made to the Zoning Administrator, and shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon or used; the exact sizes and locations on the lot of building already existing, if any; the location and dimension of the proposed building or alteration or use of land, and the detailed location and size of all required off-street parking and loading areas. The application shall include such other information as lawfully may be required by the Zoning Administrator, including and not limited to, existing or proposed uses of the building and/or land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provided for the enforcement of, this Ordinance.

- (1) Where any required information, such as a site plan, is placed on a building permit application, such information may be omitted from the application for a Zoning Certificate, and the Zoning Certificate shall make reference to the date and the number of the building permit application. A Zoning Certificate may be issued at the same time the Zoning Administrator approves the zoning aspects of a building permit application.

- (2) One copy of the Zoning Certificate shall be returned to the applicant by the Zoning Administrator after he or she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The second copy, similarly marked, shall be retained by the Zoning Administrator. The Zoning Administrator shall maintain a record of all Zoning Certificates, and copies shall be furnished upon request to any person.

- (3) Failure to obtain a Zoning Certificate shall be a violation of this Ordinance and punishable under § 152.999 of this Ordinance.

(C) *Zoning Certificates for existing Conforming Uses.* Uses of buildings or land existing at the time of passage of this Ordinance or amendments thereto, which conform to the requirements of this Ordinance, do not need a Zoning Certificate. However, if the owners or occupants desire a Zoning Certificate, the Zoning Administrator shall issue same at the standard fee after asserting the use of the building and/or land conforms to the Ordinance.

(D) New houses constructed in Subdivisions approved after March of 2001 shall be required to provide a Certificate of Survey. The Certificate of Survey shall be prepared by a Registered Land Surveyor under the laws of the State of Minnesota. The Certificate of Survey shall show: the elevation of the crown of the street upon

which the property fronts; the proposed elevation of the top of the foundation and the garage floor of all structures, which shall be in accordance with § 151.070 (A)(9); all property lines shown with length measurements, minimum building setback lines; actual building setback lengths; existing elevation contour lines; north arrow and bar scale; proposed drainage direction; name of owner, site address, and legal description. (7/21/03 Ord. Amendment)

(E) *Consistency with State Law.* Notwithstanding anything in this chapter to the contrary, the provisions of M.S. §15.99, as it may be amended from time to time, and the following sections shall govern the process for making decisions under this Chapter. To the extent to which these sections conflict with the provisions of M.S. §15.99, as it may be amended from time to time, the provisions of that statute shall apply.

(F) *Applications.*

(1) Notwithstanding anything to the contrary in this Chapter, all applications for any site plan, conditional use permit, land use permit, variance, or for any other City approval required by this chapter, or to amend this Chapter, shall be made in writing on a form provided by the City, if the City has a form, to the Zoning Administrator. The Zoning Administrator is authorized to reject in writing any incomplete application within fifteen (15) business days of receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing. This rejection shall be sent by first-class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. Nothing in this section shall be deemed to prevent the City from requesting additional information from the applicant upon which to base a decision.

(2) If a dispute arises over a specific fee imposed by the City, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.

(G) *Final Actions.* As required by M.S. § 15.99, as it may be amended from time to time, the following provisions apply to the process for approving or denying applications for a zoning amendment, site plan, conditional use permit, land use permit, variance, or any other application which requires a City approval under this chapter.

(1) The City shall take final action to approve or deny an application described above within sixty (60) days of receiving an application, unless the application is not accepted under Subdivision (F). If the City cannot take action to approve or deny the application within sixty (60) days of receiving the application, the Zoning Administrator is authorized before the end of the initial sixty (60) day period, to make a one-time extension of the time for taking action by providing written notice by first-call mail to the applicant of the extension, the reasons, for the extension, and its anticipated length, which may not exceed an additional sixty (60) days unless approved by the applicant in writing.

(2) When the final action to approve or disapprove an application is to be taken by the City Council, the Planning Commission or the Board of Appeals and Adjustments, if a vote on a resolution or properly made motion to approve the application fails for any reason, the failure shall constitute a denial of the application, provided that those voting against the motion state on the record the reasons why they oppose the application. A denial of an application because of a failure to approve a resolution or motion does not preclude an immediate submission of a same or similar application.

(3) Except as provided in paragraph (2), if the application is denied by the City Council, Planning Commission or Board of Appeals and Adjustments, whichever body has the authority to make the final decision to approve or deny an application, it must state the reasons for denial on the record and provide the applicant in writing a statement of the reasons for the denial. If this written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the application but before the expiration of the time allowed for making a decision under this section. The written statement must be consistent with the

reasons state in the record at the time of the denial. The written statement must be provided to the applicant upon adoption.

(4) If the decision to deny the request is made by the Zoning Administrator or other city official, the official must state in writing the reasons for the denial at the time the official denies the request.

(H) *Additional Extensions of Time.* M.S. §15.99, as it may be amended from time to time, provides for certain exceptions to the time limits established in Subsection (G). These exceptions are as follows. If the provisions of M.S. § 15.99, as it may be amended from time to time are inconsistent with this section, then the provisions of that statute shall apply.

(1) The time limit in Subsection (G) is extended if a state statute, federal law, or court order requires a process to occur before the city acts on the application, and the time periods prescribed in the state statute, federal law, or court order make it impossible to act on the application within sixty (60) days. In cases described in this paragraph, the deadline is extended to sixty (60) days after completion of the last process required in the applicable statute, law, or order. Final approval of the city receiving an application is not considered a process for purposes of this paragraph.

(2) The time limit in Subsection (G) is also extended if: (1) an application submitted to a state agency requires prior approval of a federal agency; or (2) an application submitted to the city, requires prior approval of a state or federal agency. In cases described in this paragraph, the deadline for action is extended to sixty (60) days after the required prior approval is granted.

(I) *Applications for Subdivision Approval and Building Permits.* Subsections (E), (F), and (G) shall not apply to any request for action under the city's Subdivision Regulations or under M.S. §462.358 or Ch. 505, as they may be amended from time to time. Neither shall they apply to a request for a building permit. (*Amd. Ord. 2004-A, 1/26/04*)

§ 152.240 NON-CONFORMING USES OF LAND, STRUCTURES, AND USES OF STRUCTURES.

(A) *Intent.* Within the districts established by this Ordinance or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments thereto.

(B) *Enlargement and Expansion Prohibited.* The lawful use of buildings or land existing on, prior to, (April 22, 2013), which does not conform to the provisions of this section may be continued through repair, replacement, restoration, maintenance or improvement; provided, however, that no non-conforming use of land shall be enlarged or increased, nor shall any non-conforming use be extended to occupy a greater area of land than that occupied by the use at the time of the adoption of this section; nor shall any non-conforming use be moved to any other part of the parcel of land upon which the same was conducted at the time of the adoption of this section.

(C) *Buildings under Construction.* To avoid practical difficulties, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner.

(D) *Non-Conforming Uses of Land.* Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

(2) No such non-conforming use shall be moved in whole, or in part, to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

(3) If any such non-conforming use of land is voluntarily discontinued for one (1) year or more, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

(4) Where non-conforming use status applies to a structure and premises in combination, removal, or destruction of the structure shall eliminate the non-conforming status of the land.

(E) *Non-Conforming Structures.* Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in a way which increases its non-conformity.

(2) Should such structure be destroyed by fire or other peril to an extent of greater than fifty (50) percent of its market value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. In determining whether a nonconforming building or structure has been destroyed to an extent of fifty (50) percent or more of its market value, the reviewing authority shall consider the market value of the entire non-conforming use.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(F) *Non-Conforming Uses of Structures.* If a lawful use of structure, or of structure and premises in combination exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

(3) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use, provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with provisions of this Ordinance.

(G) *Restoration.* Whenever a lawful non-conforming structure, use, or use of structure has been damaged by fire or other peril to the extent of fifty (50) percent or more of its fair market value as estimated by the Director or its designated appointee and approved by the Council, and a building permit has been applied for within one hundred eighty (180) days of when the property was damaged, the property may be restored to its original state but may not be expanded or enlarged. The Council may impose reasonable conditions upon a building permit in

order to mitigate any newly created impact on adjacent property. If no building permit is applied for within one hundred eighty (180) days, any future use of the structure or land shall be in full conformity with the provisions of this Code.

(H) *Normal Maintenance.* Maintenance of a building or other structure containing or used by a non-conforming use will be permitted when it includes necessary non-structural repair and incidental alterations which do not extend or intensify the non-conforming building or use.

(1) Nothing in this Code shall prevent the placing of a structure in safe condition when the structure is declared unsafe by the building codes and standards of the City.

(I) *Change to Conforming Use.* Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.

(J) *Discontinuance of Use.* When a non-conforming use of a structure, or structure and premises in combination, is voluntarily discontinued for one (1) year or more, the structure, or structures and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. (Amending Ordinance 2004-A: 14/26/04; 2013-C: 4/22/2013)

§ 152.241 CONDITIONAL & INTERIM USE PERMITS.

Conditional and Interim Use Permits may be issued for any and only the uses or purpose for which such permits are required or permitted by the provisions of this Ordinance.

(A) *Conditional Uses.*

(1) *Procedure.*

(a) Application for the issuance of a Conditional Use Permit shall be made to the Planning Commission. The Planning Commission may hold such hearings on the proposal to issue a Conditional Use Permit as it may consider necessary but at least one (1) public hearing shall be held on any such application. Notice shall be given at least ten (10) days in advance of the public hearing in a newspaper of general circulation in the City. The person or his agent making the appeal or the request shall be notified by mail. Any party may appear in person at the public hearing, or by agent or attorney. Following the hearing, the Planning Commission shall make a report upon the proposal to the City Council and shall recommend to the City Council whatever action it deems advisable.

(b) To defray administrative costs or processing of requests for Conditional Use Permits, a fee shall be paid by the applicant.

(c) Upon receipt of the report of the Planning Commission, the City Council may hold whatever public hearings it deems advisable and shall make a decision upon the request for a Conditional Use Permit.

(d) Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity to the terms of such Permit and of any conditions designated in connection therewith.

(2) *Findings.* No Conditional Use shall be recommended by the City Planning Commission unless said Commission shall find:

(a) That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminished and impair property values within the immediate vicinity;

(b) That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;

(c) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;

(d) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use; and,

(e) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

(3) *Conditions.* The Planning Commission may recommend and the Council may designate conditions and require guarantees in the granting of a Conditional Use Permit. Conditions may include, but are not limited to, the following:

- (a) Paving, shrubbery, screening, fences, or walls.
- (b) Control or elimination of smoke, dust, vibration, gas, noise, odor.
- (c) Hours of operation.
- (d) Location of exits.
- (e) Cleaning and painting.
- (f) Elimination of nonconforming uses or land or nonconforming signs.
- (g) Direction and intensity of outdoor illumination.
- (h) Off-street parking and loading.

(B) *Interim Uses.*

(1) *Purpose.* The purpose and intent of allowing interim uses is 1) to allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in the comprehensive plan; and 2) to allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future.

(2) *Application, Public Hearing, Notice & Procedure.* The application, public hearing, public notice and procedure requirements for interim use permits shall be the same as those for zoning amendments as provided in § 152.236 of this Ordinance.

(3) *Standards.* The Planning Commission shall recommend an interim use permit and the Council shall issue such interim use permit only if it finds that such use at the proposed location:

- (a) Meets the standards of a conditional use permit as set forth in Subdivision (2) of this section.
- (b) Conforms to the zoning regulations, performance standards and other requirements.
- (c) Is allowed as an interim or conditional use in the zoning district.

(d) Will terminate upon a date or event that can be identified with certainty.

(e) Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future.

(f) Will be subjected to, by agreement with the owner, any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

(4) *Termination.* An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:

(a) The date stated in the permit; or

(b) A violation of conditions under which the permit was issued; or

(c) A change in the City's zoning regulations which render the use nonconforming.

(C) *Violations.* Violations of conditions imposed by the Council in conjunction with approval of a conditional or interim action shall be deemed a violation of this Ordinance and shall be revocable and punishable under § 152.999 of this Ordinance. (*Ord. amend. 2009-D, 5/11/2009*)

§ 152.242 AMENDMENTS.

(A) *Authority to amend.* The City Council may amend, supplement, or change the regulations, restrictions, and boundaries in this Ordinance after the public hearing and other procedures are followed as set forth in this Section.

(B) *Initiation of Amendments.* Amendments to this Ordinance may be proposed by the City Council, or duly signed petitions may be presented to the Zoning Administrator, requesting an amendment by the following:

(1) The City Planning Commission

(2) By one or more of the owners, lessees, or occupants within the area proposed to be changed by the amendment.

(3) *Limitation of applications.* A party shall not initiate action for a zoning amendment affecting the same land more often than once every twelve (12) months unless the Planning Commission has determined that the conditions of the application have sufficiently changed to warrant reconsideration by the City of the proposal.

(4) *Referral to the Planning Commission.* Any proposal for the amendment of this Zoning Ordinance not originating from the petition of the Planning Commission shall be referred to the Commission for consideration and reported before any final action is taken by the City Council.

(5) *Action by the Planning Commission.* The Commission shall study a proposed amendment in relation to public necessity, convenience, general welfare, and good zoning practice, and, within sixty (60) days after Council referral, shall recommend the approval or denial of the proposed amendment or approval of some modification thereof, and submit such recommendation to City Council. Failure of the Planning Commission to report within the required sixty (60) days shall be construed as approval of the proposed amendment or change.

(6) *Hearing and notice.* After receiving the Planning Commission's report or petition for a proposed zoning amendment, City Council shall hold a public hearing on the proposal. A notice of the time, place and

purpose of the hearing shall be published in the official newspaper of the municipality at least ten (10) days prior to the day of the hearing. When an amendment involves changes in district boundaries affecting an area of five (5) acres or less, a similar notice shall be mailed at least ten (10) days before the day of the hearing to each owner of affected property and property situated wholly or partly within three hundred fifty (350) feet of the property to which the amendment relates. For the purpose of giving mailed notice, the persons responsible for mailing the notice any use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

(7) *Action by City Council.* The Council shall, within reasonable time after the public hearing, approve or deny the proposed zoning amendment. All amendments and zoning ordinances shall be approved by four (4) of the five (5) members of Council. Failure of a motion to approve an amendment shall be deemed a vote to deny the amendment. For a proposed amendment involving a change in the zoning map, the City Council may modify the original proposal to a more restricted zoning district or a smaller area than advertised for the public hearing, but may not approve a change to a zoning district allowing uses not permitted in the proposed district originally listed in the notice for public hearing. No such ordinance, measure, or regulation which violates, differs from, or departs from the plan or report submitted by the Planning Commission shall take effect unless passed or approved by four (4) of the five (5) or two (2) of the three (3) members of the Council voting on the question which is before the Council at that time.

§ 152.243 SCHEDULE OF FEES.

(A) The City Council shall establish a schedule of fees, charges and expenses, and a collection procedure for Zoning Certificates, appeals, and applications to the Board of Appeals, and applications for Conditional Uses and rezoning of land. The schedule of fees shall be posted in the office of the Zoning Administrator, and may be altered or amended only by the City Council.

(B) No permit, certificate, variance, or conditional use permit shall be issued or allowed unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals unless or until preliminary charges and fees have been paid in full.

§ 152.244 VIOLATIONS

(A) *Complaint.* Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may submit a complaint. Such complaint stating fully thereof shall be such filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance. The identities of individuals who register complaints shall be kept confidential and are not deemed as accessible to the public. Penalties for violation of confidentiality are provided in the Data Practices Act.

(B) *Violation of Zoning Ordinance May be Enjoined.* No person shall erect, construct, alter, repair, or maintain any building or structure or use any land in violation of this Ordinance. In the event of such violation, or imminent threat thereof, the municipal corporation or the owner of any contiguous or neighboring property who would be especially damaged by such violation, in addition to any other remedies provided by law, may institute a suit for injunction to prevent or terminate such violations.

(C) *Illegal uses under original zoning ordinance or in annexed areas.* A use in violation of the provisions of the Waseca County Zoning Ordinance in an area subsequently annexed to the City of Janesville, shall not be validated by the adoption of this Ordinance, and shall be subject to the penalties and sanctions of this Ordinance.

§ 152.999 PENALTY.

(A) Violation of the provisions of this Ordinance of failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Ordinance of fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500), or imprisoned for not more than thirty (30) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(B) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person whom commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(C) Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 152.9991 VALIDITY

Should any Section or Subsection of this Ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the Ordinance as a whole or any part thereof other than the part so declared invalid.

CHAPTER 153: ADULT USES

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GENERAL PROVISIONS

§ 153.010 STATUTORY AUTHORIZATION.

(A) *Statutory authorization.* This adult use chapter is adopted pursuant to the authority delegated to the city by M.S. Chapter 462, as it may be amended from time to time, commonly known as the Minnesota City's Planning and Zoning Enabling Legislation.

(B) *Findings and purpose.*

(1) This chapter is intended to regulate "adult uses," those premises, enterprises, establishments, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

(2) The nature of adult uses is such that they are recognized as having adverse secondary impacts, based

upon studies of the impacts that adult establishments have on their surrounding communities. These studies have been conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington.

(3) The adverse secondary impacts found in the studies include increased crime rates, decreased property values, increased transiency, neighborhood blight and potential health risks. These impacts are particularly apparent when they are accessible to minors and located near residential properties or residential uses such as schools, day care centers, libraries or parks. The nature of the adult uses require that they not be allowed within certain zoning districts or be set back a minimum distance from each other or other residential uses. Special regulation of these uses is necessary to ensure that the adverse secondary effects would not contribute or enhance criminal activity in the area of such uses, nor will they contribute to the blighting or downgrading of the surrounding property and lessening of its value.

(4) It is therefore in the best interest of the public health, safety and welfare of the citizens of the city that certain types of activities, as set forth in this ordinance, are prohibited upon the premises of licensed liquor, wine and beer establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. Further, the city intends that the standards in this chapter reflect the prevailing community standards in the city. This chapter is intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The City Council also desires to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various acts of criminal conduct such as prostitution, sexual assault and disorderly conduct. (*Res. 2002-29, passed 8-20-2002*)

§ 153.020 DEFINITIONS AND WORD USAGE.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

ADULT USE - BODY PAINTING STUDIO. A business or establishment which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when the body is wholly or partially nude in terms of "specified anatomical areas."

ADULT USE - BOOKSTORE. A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film if the building or portion of a building is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas."

ADULT USE - CABARET. A building or portion of a building used for providing dancing or other live entertainment if the building or portion of a building excludes minors by virtue of age or if the dancing or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas."

ADULT USE - COMPANIONSHIP ESTABLISHMENT. A companionship establishment which excludes minors by reason of age or which provides the service of listening to or engaging in conversation, talk or discussion between an employee of the establishment and a customer if the service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT USE - CONSERVATION/RAP PARLOR. A conversation/rap parlor which excludes minors by

reason of age or which provides the service of listening to or engaging in conversation, talk or discussion if the service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

ADULT USE - HEALTH/SPORT CLUB. A health/sports club which excludes minors by reason of age or if the club is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

ADULT USE - HOTEL/MOTEL. A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting or describing or relating to “specified sexual activities” or “specified anatomical areas.”

ADULT USE - MASSAGE PARLOR, HEALTH CLUB. A massage parlor or health club which restricts minors by reason of age and which provides the service of massage if the service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

ADULT USE - MINI-MOTION PICTURE THEATER. A building or portion of a building with a capacity of less than 50 persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by reason of age or if the material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

ADULT USE - MODELING STUDIOS. An establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to the customers and who engage in “specified sexual activities” or “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by the customers.

ADULT USE - MOTION PICTURE ARCADE. Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically-, electrically- or mechanically-controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”

ADULT USE - MOTION PICTURE THEATER. A building or portion of a building with a capacity of more than 50 persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by reason of age or if the material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

ADULT USE - NOVELTY BUSINESS. A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

ADULT USE - SAUNA. A sauna which excludes minors by reason of age or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing utilizing steam or hot air as a cleaning, relaxing or reducing agent if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

ADULT USE - STEAM ROOM/BATHHOUSE FACILITY. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing utilizing steam or hot air as a cleaning, relaxing or reducing agent if the building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

ADULT USES. Uses including but not limited to adult bookstores, adult motion picture theaters, adult picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios and other premises, enterprises, establishments, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas” which are capable of being seen by members of the public.

ADULT USES - ACCESSORY. A use, business or establishment having 10% or less of its stock in trade or floor area allocated to, or 20% or less of its gross receipts derived from, movie rentals or magazine sales.

ADULT USES - PRINCIPAL. A use, business or establishment having more than 10% of its stock in trade or floor area allocated to, or more than 20% of its gross receipts derived from, movie rentals or magazine sales.

LIQUOR LICENSE. Any of the following licenses issued or approved by the city pursuant to M.S. Chapter 340A, as it may be amended from time to time:

- (1) On-sale intoxicating malt liquor license;
- (2) On-sale intoxicating liquor license; or
- (3) On-sale wine license.

MINOR. Person(s) under 18 years of age.

POLICE - RELATED SERVICE CALLS. Requests for assistance made to the city Police Department from a neighboring resident, a victim of crime, a patron of the establishment or the management of the adult use. The calls may include but are not limited to assaults, disorderly conduct, indecent exposure, prostitution and trespassing.

SPECIFIED ANATOMICAL AREAS.

- (1) The human genitals, pubic region, buttock, anus or the female breast(s) below a point immediately above the top of the areola, unless completely and opaquely covered.
- (2) The erect penis, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral - anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship or the use of excretory functions in the context of a sexual relationship and any of the following sexual - oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;
- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation or ejaculate, sodomy, oral copulation, coitus or masturbation;
- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast(s);
- (5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in

sexually revealing costumes and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical constraint of any such persons;

(6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; and

(7) Human erection, urination, menstruation, vaginal or anal irrigation. (*Res. 2002-29, passed 8-20-2002*)

§ 153.030 JURISDICTION.

The provisions of this chapter shall apply to all adult uses located within the boundaries of the city. (*Res. 2002-29, passed 8-20-2002*)

§ 153.040 COMPLIANCE.

All adult uses shall be in full compliance with requirements of this chapter; Chapter 152 Zoning Code, and other applicable provisions of county, state or federal laws and applicable fire, health, building and/or safety codes. (*Res. 2002-29, passed 8-20-2002*)

§ 153.050 NONCONFORMING ADULT USES.

Nonconforming adult uses shall be subject to the provisions contained in § 152.280. (*Res. 2002-29, passed 8-20-2002*)

§ 153.060 ENFORCEMENT.

The City Council, the Police Chief and the City Administrator are responsible for the enforcement of this chapter. (*Res. 2002-29, passed 8-20-2002*)

§ 153.070 INTERPRETATION.

(A) In the interpretation and application, the provisions of this chapter shall be interpreted to protect the public health, safety and welfare of the citizens of the city by providing for the regulation of adult uses.

(B) This chapter is not intended to limit or repeal any other powers granted to the city by the state. (*Res. 2002-29, passed 8-20-2002*)

§ 153.080 SEVERABILITY.

If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the chapter shall not be affected thereby. (*Res. 2002-29, passed 8-20-2002*)

§ 153.090 ABROGATION AND GREATER RESTRICTIONS.

(A) It is not intended by this chapter to repeal, abrogate or impair any existing chapters or laws.

(B) When this chapter is inconsistent with any other chapter or law, that which imposes the greater restriction shall prevail. (*Res. 2002-29, passed 8-20-2002*)

§ 153.100 REFERRAL TO OTHER LAWS.

If any section of this chapter references another chapter, statute, rule or other provision of law, the reference shall be for that other provision of law as currently enacted and as it may be amended or re-codified in the future. (Res. 2002-29, passed 8-20-2002)

§ 153.110 PERMITTED USES.

Permitted uses of land or buildings as hereinafter listed shall be permitted only in the districts indicated and under the conditions specified. (Res. 2002-29, passed 8-20-2002)

§ 153.120 REPEAL.

Any portion of any chapter in conflict with this chapter is hereby repealed. (Res. 2002-29, passed 8-20-2002)

§ 153.130 EFFECTIVE DATE.

This chapter shall be in full force and effect 30 days after its passage and publication as provided by law. (Res. 2002-29, passed 8-20-2002)

ADMINISTRATION**§ 153.300 ADULT USE LICENSE REQUIRED.**

(A) *Required.* No person shall own or operate an adult use establishment without first having secured an adult use license from the city.

(B) *Application.* The application for an adult use license shall be submitted on a form provided by the city and shall include:

(1) If the application is an individual: the name, residence, phone number and birth date of the applicant shall be provided;

(2) If the applicant is a partnership: the name, residence, phone number and birth date of each general and limited partner shall be provided;

(3) If the applicant is a corporation: the name, residence, phone numbers and birth dates of all persons holding more than 5% of the issued outstanding stock of the corporation;

(4) The name, address, phone number and birth date of the operator and manager of the operation if different from the owner(s);

(5) The address and legal description of the premises where the adult establishment is to be located;

(6) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity or the operation of an adult establishment or adult business by the applicant, operator or manager and whether or not the applicant has ever applied for or held a license to operate a similar type business in any other community(s);

(7) In the case of a corporation, a statement detailing any felony convictions by the owners of more than 5% of the issued and outstanding stock of the corporation and whether or not those property owners have ever applied for or held a license to operate a similar type of business in other community(s);

(8) The activities and types of business to be conducted;

(9) The hours of operation;

(10) Provisions to be utilized to restrict access by minors; and

(11) A building plan of the premises detailing all internal operations and activities.

(C) *Expiration.* The license shall expire on December 31 of the year it is issued.

(D) *Responsibility to obtain other permits/licenses.* The granting of any permit or license pursuant to requirements of this chapter or other applicable city ordinances shall not relieve applicants of their responsibility to obtain any required state or federal permits. (Res. 2002-29, passed 8-20-2002)

§ 153.310 ADULT USE LICENSE FEE.

(A) *Submittal of fees.* Each application for an adult use license shall be submitted to the City Administrator and shall be accompanied by payment in full of the required fee for the adult use license.

(B) *Expiration of adult use license.* Each license shall be issued for a period of one calendar year. All licenses shall expire on the last day of December of each year. Any portion of a year less than 12 months shall be counted as a full year for the purpose of calculation of fees.

(C) *Annual fee.* The annual fee for an adult use license shall be as detailed in the fee schedule established by the City Council. The fee may be adjusted from time to time by City Council resolution.

(D) *Refund of fee.* If any application for a license is rejected, the license fee shall not be refunded. No part of the fee paid for any license issued under this chapter shall be refunded. (Res. 2002-29, passed 8-20-2002)

§ 153.320 GRANTING OF ADULT USE LICENSE.

(A) The Police Chief shall investigate all facts set out in the application. Each owner of the establishment, be it an individual, partner or limited partner, shall be subjected to a criminal history background check by the Chief or his or her designee. Costs of the criminal history investigations shall be borne by the applicant according to a fee schedule established by the Chief. The application for the adult use license shall not be considered complete until all required information has been furnished, the investigation has been completed by the Chief and a report provided to the City Administrator by the applicant.

(B) The Planning Commission shall hold a public hearing and report its findings to the City Council within 30 days after the City Administrator receives a complete application. At the hearing, opportunity shall be given to any person to be heard relating to the granting of the license. The City Council shall grant or deny the adult use license within 30 days of the conclusion of the hearing.

(C) The adult use license shall be issued only to the applicant and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premises or person without the written permission of the city. If the licensee is a partnership or corporation, a change in the identity of any of the principals of the partnership or corporation shall be deemed to be a transfer of the license. (Res. 2002-29, passed 8-20-2002)

§ 153.330 PERSONS INELIGIBLE FOR ADULT USE LICENSE.

No license shall be issued to any person:

(A) Under 21 years of age;

(B) Who is overdue in payments to a city, county, state or federal government of taxes, fees, fines or penalties or charges for municipal services and utilities assessed against them or imposed upon them;

(C) Who has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses or adult establishments;

(D) Who is not the proprietor of the establishment for which the license is issued;

(E) To any applicant who is acting as an agent for an individual who would be disqualified pursuant to the above criteria; or

(F) Who has not paid the required investigation/licensing fees required by this chapter. (*Res. 2002-29, passed 8-20-2002*)

§ 153.340 PLACES INELIGIBLE FOR ISSUANCE OF ADULT USE LICENSE.

(A) No license shall be granted for adult establishments on any premises where a licensee has been convicted of a violation of this chapter or where any license hereunder has been revoked for cause until one year has elapsed after the conviction or revocation.

(B) No license shall be granted for any adult establishment which is not in compliance with the city's land use regulations or fire, health and safety codes and all provisions of federal and state law. (*Res. 2002-29, passed 8-20-2002*)

§ 153.350 CONDITIONS OF ADULT USE LICENSE.

(A) All licensed premises shall have the license posted in a conspicuous place at all times.

(B) No minor shall be permitted on the premises.

(C) Any designated inspection officer of the city shall have the right to enter, inspect and search the premises of a licensee during business hours.

(D) No adult goods or materials shall be offered, sold, transferred, conveyed, given, displayed or bartered to any minor.

(E) In granting a license for an adult establishment, the City Council may impose additional conditions to protect the best interest of the surrounding area or the city as a whole.

(F) The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the city upon request.

(G) The licensee must cover or otherwise arrange all windows, doors and apertures to prevent any person

outside the licensed premises from viewing any items or merchandise inside the premises depicting specified sexual activities or specified anatomical areas. (*Res. 2002-29, passed 8-20-2002*)

ADULT USE OPERATIONAL RESTRICTIONS

§ 153.500 ADULT USES - PRINCIPAL.

(A) *General provisions.* Adult uses as defined in § 153.02 of this chapter shall be subject to the following general provisions.

(1) No person(s) under 18 years of age shall be permitted in any adult use - principal premises, enterprise, establishment, business or place.

(2) No liquor license shall be issued to any adult use - related premises, enterprise, establishment, business or place open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, description of or participation in specified sexual activities or specified anatomical areas.

(3) No adult use - related premises, enterprise, establishment, business or place shall allow or permit the sale or service of set-ups to mix alcoholic drinks. No alcoholic beverages shall be consumed on the premises of the premises, enterprise, establishment, business or place.

(4) Activities classified as obscene are not permitted and are prohibited. In no instance shall the application or interpretation of this chapter be construed to allow an activity otherwise prohibited by law.

(5) Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

(6) An adult use which does not qualify as an accessory use pursuant to § 153.53, shall be classified as an adult use - principal.

(B) *Permitted locations for adult use - principal.*

(1) Adult use - principal shall only be allowed in the M-1 Industrial district.

(2) Access, parking, screening, lighting and other relevant site-related criteria for all adult uses shall be as set forth in Chapter 152.

(3) Adult use - principal shall be located at least 1,000 lineal feet as measured in a straight line from the closest point of the main entrance of the building within which the adult use - principal is located to the property line of:

- (a) Any residentially used or zoned property;
- (b) Any licensed day care center;
- (c) Any public or private educational facility classified as an elementary, junior high or senior high school;
- (d) Any hotel or motel;
- (e) Any public park or trails system;

- (f) Any nursing home;
- (g) Any youth establishment;
- (h) Any church or church - related organization; or
- (i) Another adult establishment.

(4) No adult use - principal shall be located in the same building or upon the same property as another adult use - principal.

(C) *Hours of operation.* Hours of operation for adult uses - principal shall be from 9:00 a.m. to 12:30 a.m. A differing time schedule may be approved by the City Council if it can be satisfactorily demonstrated to the council that all of the following apply:

- (1) The use does not adversely impact or affect uses or activities within 1,000 feet;
- (2) The use will not result in increased policing and related service calls; and
- (3) The different operating time schedule is critical to the operation of the business.

(D) *Sign regulations.* Adult use - principal shall adhere to the following sign regulations in addition to those set forth in § 152.212.

(1) Sign messages shall be generic in nature and shall only identify the name and type of business. Signs shall not be pictorial.

(2) Signs shall be limited to the size and number of signs permitted in the district in which the use is located. *(Res. 2002-29, passed 8-20-2002)*

§ 153.510 ADULT CABARET REGULATIONS.

The following additional restrictions apply to adult cabarets.

(A) No person, firm, partnership, corporation or other entity shall advertise or cause to be advertised an adult cabaret without a valid adult use license.

(B) An adult use license shall maintain and retain for a period of two years the names, addresses and ages of all persons engaged, hired or employed as dancers or performers by the licensee.

(C) An adult cabaret shall be prohibited in establishments where alcoholic beverages are served.

(D) No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude unless as provided in divisions (G) and (H) below.

(E) No patron or any person other than a dancer or live entertainer, as provided in divisions (G) and (H) below, shall be nude in an adult cabaret.

(F) No dancer, live entertainer or performer shall be under 18 years of age.

(G) All dancing shall occur on a platform intended for that purpose which is raised at least two feet above the level of the floor.

(H) No dancer or performer shall perform or dance closer than ten feet from any patron unless the dancer or performer is enclosed behind a floor-to-ceiling glass partition.

(I) No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.

(J) No person under 18 years of age shall be admitted to an adult cabaret. *(Res. 2002-29, passed 8-20-2002)*

§ 153.520 VIEWING BOOTH REGULATIONS.

The following additional regulations apply to viewing booths.

(A) Individual motion picture viewing booths must be without doors and the occupant must be visible at all times.

(B) Only one person may be in a viewing booth at a time.

(C) Walls separating booths must be such that the occupants cannot engage in sexual activity.

(D) Each booth must be kept clean and sanitary.

(E) Minimum lighting requirements must be maintained. *(Res. 2002-29, passed 8-20-2002)*

§ 153.530 ADULT USES - ACCESSORY.

(A) *Permitted locations for accessory adult uses.* Adult uses - accessory shall be permitted in the B-1 General Business District and the M-1 Industrial Districts provided the accessory use conforms with the provisions of this subdivision. Adult uses - accessory shall:

(1) Comprise no more than 10% of the floor area of the establishment in which it is located.

(2) Comprise no more than 20% of the gross receipts of the entire business operation.

(3) Not involve or include any activity except the sale or rental of merchandise.

(B) *Separation of areas.* Adult uses - accessory shall be restricted from and prohibit access to minors by physically separating the following and similar items from areas of general public access.

(1) Movie rental display areas shall be restricted from general view and shall be located within a separate room the access of which is in clear view of and under the control of the persons responsible for the operation.

(2) Magazines or publications classified as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

(3) Other adult uses not specifically cited shall comply with the intent of this chapter.

(C) *Advertising.* Adult uses - accessory shall be prohibited from both internal and external advertising and signing of adult materials and products. *(Res. 2002-29, passed 8-20-2002)*

§ 153.990 PENALTY.

- (A) *General penalty.* Any person violating any provision of this chapter is guilty of a misdemeanor. In addition, the city may sue for injunctive relief on any violation or to prevent a violation or may suspend and/or revoke any permits or licenses issued by the City Council with cause.
- (B) *Suspension or revocation of adult use license.* Any violation of this chapter shall be a basis for suspension or revocation of any permit or license granted hereunder. In the event the City Council proposes to suspend or revoke the adult use license, the City Council shall hold a hearing. The city will provide ten days' written notice before such a hearing.
- (C) *Suspension or Revocation of liquor license.* Any violation of this chapter shall be a basis for suspension or revocation of a liquor license issued pursuant to M.S. Chapter 340A, as it may be amended from time to time. City Council or anyone it delegates shall follow the notice and hearing requirements for contested cases under M.S. §§ 14.57 to 14.69 of the Administrative Procedures Act. (Res. 2002-29, passed 8-20-2002)