

The Village of

CALEDONIA, MICHIGAN

“A Friendly, Growing Community”

**ZONING
ORDINANCE**

(Including all amendments adopted through January 9, 2017)

TABLE OF CONTENTS

	Page No.
CHAPTER I	TITLE, PURPOSE AND INTERPRETATION..... 1-1
Section 1.1	Title..... 1-1
Section 1.2	Purpose..... 1-1
Section 1.3	Scope and Interpretation. 1-1
Section 1.4	Legal Basis..... 1-1
CHAPTER II	DEFINITIONS 2-1
Section 2.1	Rules Applying to Text..... 2-1
Section 2.2	Definitions..... 2-1
CHAPTER III	GENERAL PROVISIONS..... 3-1
Section 3.1	The Effect of Zoning..... 3-1
Section 3.2	Restoration of Unsafe Building. 3-1
Section 3.3	Area, Height and Use Conditions and Exceptions..... 3-1
Section 3.4	Essential Services..... 3-1
Section 3.5	Required Yard or Lot..... 3-2
Section 3.6	Control of Heat, Glare, Fumes, Dust, Noise and Vibration..... 3-2
Section 3.7	Temporary Uses or Structures Requiring Zoning Inspection Authorization. 3-2
Section 3.8	Accessory Uses..... 3-2
Section 3.9	Accessory Buildings. 3-3
Section 3.10	Principal Building on a Lot..... 3-3
Section 3.11	Double Frontage Lots. 3-3
Section 3.12	Minimum Provisions for Single Family Dwellings..... 3-3
Section 3.13	Additional Setbacks for Structures Adjacent to Major Streets. 3-4
Section 3.14	General Lighting and Screening Requirements. 3-5
Section 3.15	Dismantled, Non-Operating or Unlicensed Motor Vehicles..... 3-5
Section 3.16	Minimum Street Frontage and Lot Width..... 3-5
Section 3.16A	Maximum Lot Depth to Width. 3-6
Section 3.17	Fences. 3-6
Section 3.18	Governmental Improvements..... 3-7
Section 3.19	Health Department Approval..... 3-7
Section 3.20	Removal of Topsoil, Sand, Gravel, or Other Such Materials. 3-8
Section 3.21	Garages Occupied as Dwelling Units. 3-9
Section 3.22	Keeping of Pets and Livestock. 3-9
Section 3.23	Trash, Litter or Junk in Yards. 3-10
Section 3.24	Loud Motor Vehicles. 3-11
Section 3.25	Swimming Pools. 3-11
Section 3.26	Yard or Garage Sales. 3-12
Section 3.27	Vehicle Repairs on Residential Premises. 3-12
Section 3.28	Basement Dwellings. 3-12
Section 3.29	Moving of Buildings. 3-12

Section 3.30	Home Occupations.....	3-12
Section 3.31	Camper or Trailer Parking or Storage.....	3-13
Section 3.32	Performance Bonds.....	3-13
Section 3.33	Standards for Discretionary Decisions.....	3-13
Section 3.34	Mobile Homes Outside of Mobile Home Parks.....	3-14
Section 3.35	Reversion of Rezoned Areas.....	3-14
Section 3.36	Antennas and Towers.....	3-15
Section 3.37	Maps, Drawings and Renderings.....	3-18
Section 3.38	Resubmission of Matters to Planning Commission.....	3-18
Section 3.39	Private Streets.....	3-18
Section 3.40	Adult Uses.....	3-18
Section 3.41	Wind Energy Conversion Systems.....	3-19
Section 3.42	Cultivation, Sale and Distribution of Medical Marijuana.....	3-26
CHAPTER IV	ZONING DISTRICTS.....	4-1
Section 4.1	Zoning Districts.....	4-1
Section 4.2	Zoning Map.....	4-1
Section 4.3	Areas Not Included Within a District.....	4-2
CHAPTER V	AG AGRICULTURAL-RESIDENTIAL DISTRICT	5-1
Section 5.1	Description and Purpose.....	5-1
Section 5.2	Permitted Uses.....	5-1
Section 5.3	Special Land Uses.....	5-1
Section 5.4	Other Uses.....	5-2
Section 5.5	Area Regulations.....	5-2
Section 5.6	Minimum Floor Area.....	5-3
Section 5.7	Height Regulation.....	5-3
CHAPTER VI	R-1 LOW DENSITY SINGLE FAMILY DISTRICT	6-1
Section 6.1	Description and Purpose.....	6-1
Section 6.2	Permitted Uses.....	6-1
Section 6.3	Special Land Uses.....	6-1
Section 6.4	Other Uses.....	6-2
Section 6.5	Area Regulations.....	6-2
Section 6.6	Minimum Floor Area.....	6-2
Section 6.7	Height Regulation.....	6-2
CHAPTER VII	R-2 MEDIUM DENSITY SINGLE FAMILY DISTRICT	7-1
Section 7.1	Description and Purpose.....	7-1
Section 7.2	Permitted Uses.....	7-1
Section 7.3	Special Land Uses.....	7-1
Section 7.4	Other Uses.....	7-2
Section 7.5	Area Regulations.....	7-2
Section 7.6	Minimum Floor Area.....	7-2
Section 7.7	Height Regulation.....	7-3

CHAPTER VIII	R-3 MEDIUM DENSITY MULTIPLE FAMILY DISTRICT	8-1
Section 8.1	Description and Purpose.	8-1
Section 8.2	Permitted Uses.	8-1
Section 8.3	Special Land Uses.	8-1
Section 8.4	State Licensed Mobile Home Parks.	8-2
Section 8.5	Other Uses.	8-4
Section 8.6	Area Regulations.	8-4
Section 8.7	Minimum Floor Area.	8-5
Section 8.8	Height Regulation.	8-5
CHAPTER VIIIA	R-4 HIGH DENSITY MULTIPLE FAMILY DISTRICT	8A-1
Section 8A.1.	Description and Purpose.	8A-1
Section 8A.2.	Permitted Uses.	8A-1
Section 8A.3.	Special Land Uses.	8A-1
Section 8A.4.	State Licensed Mobile Home Parks.	8A-2
Section 8A.5.	Other Uses.	8A-4
Section 8A.6.	Area Regulations.	8A-4
Section 8A.7.	Minimum Floor Area.	8A-5
Section 8A.8.	Height Regulation.	8A-5
Section 8A.9.	Screening and Buffering.	8A-5
Section 8A.10.	Open Space Requirements.	8A-5
Section 8A.11.	Lot Coverage.	8A-5
Section 8A.12.	Access.	8A-6
CHAPTER IX	C-1 NEIGHBORHOOD BUSINESS DISTRICT	9-1
Section 9.1	Description and Purpose.	9-1
Section 9.2	Permitted Uses.	9-1
Section 9.3	Special Land Uses.	9-3
Section 9.4	Other Uses.	9-4
Section 9.5	Required Conditions.	9-4
Section 9.6	Area Regulations.	9-4
Section 9.7	Height Regulation.	9-5
Section 9.8	Minimum Floor Area.	9-5
CHAPTER X	C-2 HIGHWAY BUSINESS DISTRICT	10-1
Section 10.1	Description and Purpose.	10-1
Section 10.2	Permitted Uses.	10-1
Section 10.3	Special Land Uses.	10-2
Section 10.4	Other Uses.	10-3
Section 10.5	Required Conditions.	10-3
Section 10.6	Area Regulations.	10-3
Section 10.7	Height Regulation.	10-3
Section 10.8	Minimum Floor Area.	10-4
CHAPTER XI	I-I LIGHT INDUSTRIAL DISTRICT.....	11-1
Section 11.1	Description and Purpose.	11-1

Section 11.2	Permitted Uses.....	11-1
Section 11.3	Special Land Uses.....	11-2
Section 11.4	Other Uses.....	11-2
Section 11.5	Required Conditions.....	11-2
Section 11.6	Area Regulations.....	11-3
Section 11.7	Height Regulation.....	11-3
Section 11.8	Minimum Floor Area.....	11-3
CHAPTER XII	PUD PLANNED UNIT DEVELOPMENT DISTRICT	12-1
Section 12.1	Definition and Purpose.....	12-1
Section 12.2	PUD Eligibility.....	12-1
Section 12.3	Project Design Standards.....	12-2
Section 12.4	Applicable Regulations.....	12-4
Section 12.5	PUD Design Considerations.....	12-5
Section 12.6	Effects.....	12-6
Section 12.7	Application and Review Procedures.....	12-7
Section 12.8	Public Hearing Required.....	12-10
Section 12.9	Planning Commission Action.....	12-10
Section 12.10	Standards for Approval.....	12-10
Section 12.11	Final Action by the Village Council.....	12-10
Section 12.12	Conditions.....	12-11
Section 12.13	Performance Guarantees.....	12-11
Section 12.14	Phasing and Commencement of Construction.....	12-11
Section 12.15	Effect of Approval.....	12-12
Section 12.16	Modification of a PUD.....	12-13
Section 12.17	Fees.....	12-13
Section 12.18	Village-Initiated Rezoning.....	12-13
CHAPTER XIII	SPECIAL LAND USES.....	13-1
Section 13.1	Intent and Purpose.....	13-1
Section 13.2	Special Land Uses Permitted.....	13-1
Section 13.3	Required Conditions.....	13-2
Section 13.4	Application Procedure.....	13-18
Section 13.5	Public Hearing.....	13-18
Section 13.6	Standards for Considering Special Land Uses.....	13-19
Section 13.7	Performance Bonds.....	13-20
Section 13.8	Issuance of a Special Land Use Permit.....	13-20
Section 13.9	Expiration.....	13-20
Section 13.10	Reapplication.....	13-21
Section 13.11	Amendment.....	13-21
CHAPTER XIV	SITE PLAN REVIEW.....	14-1
Section 14.1	Site Plan Review.....	14-1
Section 14.2	Standards of Review.....	14-2
Section 14.3	Conditions of Review.....	14-2
Section 14.4	Review Procedure.....	14-2

Section 14.5	Appeal.....	14-3
Section 14.6	Amendments to the Approved Site Plan.....	14-3
CHAPTER XV	SIGNS IN ALL DISTRICTS	15-1
Section 15.1	Intent of Regulation.....	15-1
Section 15.2	Definitions.....	15-1
Section 15.3	Permit Required; Exemptions.....	15-5
Section 15.4	General Sign Provisions.....	15-6
Section 15.5	Prohibited Signs.....	15-8
Section 15.6	District Regulations.....	15-9
Section 15.7	Signs for Special Land Uses and Planned Unit Development District Uses.....	15-11
Section 15.8	Modifications by Planning Commission.....	15-11
Section 15.9	Billboards.....	15-11
Section 15.10	Nonconforming Signs and Signs Accessory to Nonconforming Uses.....	15-12
CHAPTER XVI	PARKING AND LOADING.....	16-1
Section 16.1	Parking Space Requirement.....	16-1
Section 16.2	Joint Use of Facilities.....	16-3
Section 16.3	Location of Facilities.....	16-3
Section 16.4	Size of Parking Space and Aisle.....	16-4
Section 16.5	Requirements for Parking Areas.....	16-4
Section 16.6	Miscellaneous Off-Street Parking Requirements.....	16-5
Section 16.7	Off-Street Loading Spaces.....	16-6
Section 16.8	Internal Access Drives.....	16-6
Section 16.9	Deferred Parking Construction.....	16-6
Section 16.10	Definitions.....	16-9
Section 16.11	Outdoor Light Fixtures, General.....	16-9
Section 16.12	Parking Lot Lighting.....	16-10
Section 16.13	Security Lighting.....	16-10
Section 16.14	Illumination of Building Facades.....	16-11
Section 16.15	Lighting of Gasoline Stations/Convenience Store Aprons and Canopies.....	16-11
CHAPTER XVII	NONCONFORMING USES, BUILDINGS OR STRUCTURES....	17-1
Section 17.1	Intent and Purpose.....	17-1
Section 17.2	Nonconforming Uses.....	17-1
Section 17.3	Nonconforming Buildings and Structures.....	17-1
Section 17.4	Nonconforming Lots of Record.....	17-3
CHAPTER XVIII	ZONING BOARD OF APPEALS	18-1
Section 18.1	Board of Zoning Appeals.....	18-1
Section 18.2	Voting Requirements.....	18-2
Section 18.3	Meetings and Quorum.....	18-2
Section 18.4	Records.....	18-2

Section 18.5	Hearings.....	18-2
Section 18.6	Appeals.....	18-2
Section 18.7	Time for Appeal; Notice.....	18-2
Section 18.8	Effect of Appeal.....	18-3
Section 18.9	Representation.....	18-3
Section 18.10	Duties and Powers of the Board of Appeals.....	18-3
Section 18.11	Variances.....	18-3
Section 18.12	Decisions.....	18-4
Section 18.13	Expiration of Variances.....	18-4
CHAPTER XIX	ADMINISTRATION AND ENFORCEMENT	19-1
Section 19.1	Zoning Administration.....	19-1
Section 19.2	Building Inspector.....	19-1
Section 19.3	Permits.....	19-1
Section 19.4	Certificate of Occupancy.....	19-1
Section 19.5	Expiration of Building Permits.....	19-1
Section 19.6	Cancellation of Permits.....	19-2
Section 19.7	Publication and Delivery of Notice of Public Hearing.....	19-2
Section 19.8	Application Fees and Other Charges; Zoning Escrow Deposits and Payments.....	19-3
Section 19.9	Violations and Penalties.....	19-3
Section 19.10	Stop Work Orders.....	19-5
CHAPTER XX	AMENDMENTS	20-1
Section 20.1	Initiation of Amendments.....	20-1
Section 20.2	Amendment Petition Procedure.....	20-1
Section 20.3	Consideration of Proposed Amendment.....	20-1
CHAPTER XXI	MISCELLANEOUS PROVISIONS.....	21-1
Section 21.1	Administrative Liability.....	21-1
Section 21.2	Reserved for Future Use.....	21-1
Section 21.3	Procedure.....	21-1
Section 21.4	Severability.....	21-1
Section 21.5	Repeal.....	21-1
Section 21.6	Effective Date.....	21-1
CHAPTER XXII	SITE CONDOMINIUM SUBDIVISIONS	22-1
Section 22.1	Purpose and Scope.....	22-1
Section 22.2	Site Condominium Review and Approval Procedures.....	22-1
Section 22.3	Financial Guarantee.....	22-6
Section 22.4	Site Condominium Subdivision Plans.....	22-7
Section 22.5	Site Condominium Subdivision Layout, Design and Required Improvements.....	22-9
Section 22.6	Variances and Waivers.....	22-12

CHAPTER XXIII	LANDSCAPING	23-1
Section 23.1	Description and Purpose.	23-1
Section 23.2	Applicability of Landscaping Provisions.	23-1
Section 23.3	Landscape Plan Required.	23-2
Section 23.4	General Landscape Regulations.	23-3
Section 23.5	Installation and Maintenance of Plant Materials.	23-3
Section 23.6	Composition of Landscaping; Berms and Other Features.	23-4
Section 23.7	Minimum Requirements for Landscape Plantings.	23-5
Section 23.8	Screening Between Land Uses.	23-5
Section 23.9	Greenbelts and Screening.	23-6
Section 23.10	Front Yard Landscaping.	23-7
Section 23.11	Parking Area Landscaping.	23-7
Section 23.12	Roadways, Access Drives and Walkways.	23-9
Section 23.13	Preservation of Existing Trees.	23-9
Section 23.14	Rain Gardens.	23-9
Section 23.15	Fencing and Screening.	23-10
Section 23.16	Exceptions to Fencing and Screening Requirements.	23-11
Section 23.17	Materials for Fencing and Screening.	23-11

VILLAGE OF CALEDONIA

ZONING ORDINANCE

An Ordinance to establish zoning districts and zoning regulations for the Village of Caledonia, Kent County, Michigan; to provide regulations governing nonconforming uses, structures and buildings; to provide for the administration, enforcement and amendment of such regulations; to prescribe penalties for the violation of such regulations; and to provide for conflicts with other ordinances or regulations; all in accordance with the provisions of Michigan Act 207 of 1921 as amended.

THE VILLAGE OF CALEDONIA, KENT COUNTY, MICHIGAN ORDAINS:

CHAPTER I
TITLE, PURPOSE AND INTERPRETATION

Section 1.1 Title. This Ordinance shall be known and may be cited as the “Caledonia Village Zoning Ordinance.”

Section 1.2 Purpose. This Ordinance is based upon the Caledonia Sketch Plan and is designed (1) to promote the public health, safety, morals and general welfare; (2) to encourage the use of land in accordance with its character and adaptability and limit the improper use of land; (3) to avoid the overcrowding of population; (4) to provide adequate light and air; (5) to lessen congestion on the public roads and streets; (6) to reduce hazards to life and property; (7) to facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and (8) to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and properties. This Ordinance is adopted with consideration, among other things, of the character of each zoning district, its peculiar suitability for particular use, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

Section 1.3 Scope and Interpretation. This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the Village is a party. Where this Ordinance imposes greater restrictions, limitations, or requirements upon (1) the use of buildings, structures, or land; (2) the height of buildings or structures; (3) lot coverage; (4) lot areas; (5) yards or other open spaces; or (6) any other use or utilization of land that are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.

Section 1.4 Legal Basis. This Ordinance is adopted pursuant to the terms of the Michigan Zoning Enabling Act, Act 110 of the Public Acts of Michigan of 2006, as it may be amended from time to time.

CHAPTER II DEFINITIONS

Section 2.1 Rules Applying to Text. The following listed rules of construction apply to the text of this Ordinance.

- (a) The particular shall control the general.
- (b) With the exception of this chapter, the headings which title a chapter, section or subsection are for convenience only and are not to be considered as enlarging or restricting the terms and provisions of this Ordinance in any respect.
- (c) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- (d) Unless the context clearly indicates to the contrary, (1) words used in the present tense shall include the future tense; (2) words used in the singular number shall include the plural number; and (3) words used in the plural number shall include the singular number.
- (e) A “building” or “structure” includes any part thereof.
- (f) The word “person” includes a firm, association, partnership, joint venture, corporation, trust, estate or equivalent entity, or a combination of any of them, as well as a natural person.
- (g) The words “used” or “occupied,” as applied to any land or building shall be construed to include the words “intended,” “arranged,” or “designed to be used” or “occupied.”
- (h) Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

The terms and words listed below in this chapter are defined for the purpose of their use in this Ordinance; these definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

Section 2.2 Definitions. The terms and words listed below in this chapter are defined for the purpose of their use in this Ordinance; these definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

Accessory Use or Structure. A use, building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure.

Antenna. Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves,

digital signals, analog signals, radio frequencies (excluding radar signals), wireless communications signals or other communication signals.

Arterial Street. Defined by the Michigan Department of Transportation as streets where the movement of relatively large volumes through traffic is the primary function, with service to adjacent land uses a secondary function (i.e. limited).

Automobile Repair - Major. General repair, rebuilding, or reconditioning of engines, or vehicles, collision service (including body repair and frame straightening), painting or upholstering; or vehicle steam cleaning and undercoating.

Automobile Repair - Minor. Minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding two (2) tons capacity, excluding, however, any repair or work included in the definition of “Automobile Repair – Major.”

Basement. That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

Bed and Breakfast Establishment. A private residence which is the principal residence of the owner thereof and which offers sleeping accommodations to guests for rent and in which meals are served to the guests thereof. A guest of such an establishment shall be a person who rents a room therein for fewer than 30 consecutive days.

Berm. A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.

Buffer Strip. A strip of land often required between certain zoning districts reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

Building. Anything which is constructed or erected, including a mobile home, having a roof supported by columns, walls, or other supports, which is used for the purpose of housing or storing of persons, animals, or personal property or carrying on business activities or other similar uses.

Building Envelope. The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built. A “Building Envelope” can also be a condominium structure.

Building Height. The vertical distance measured from the top of the main or ground level foundation wall, whichever is lowest, to the highest point of the roof surface of flat

roofs, to the deck of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

Building Setback Line. A line which defines the minimum distance (as determined by the minimum front, side, or rear yard setback) which any building, deck or porch shall be located from a property line, existing street right-of-way, easement line of an approved private street, or ordinary high water mark. Steps may be located within the building setback line. (ref. Setback.)

Child Care Center. A facility, other than a private residence, receiving one (1) or more children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. Child care center does not include a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three (3) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children are cared for not greater than three (3) hours, while persons responsible for the children are attending religious services.

Church or Synagogue. A building, the primary use of which is regular assembly of persons for religious worship or services, together with accessory uses, such as vacation bible school, instruction, counseling, recreation, social events, and periodic humanitarian activities.

Co-location. The placement of antennas of additional service providers upon a single tower or on another support structure where such structure or tower has previously been approved for and does in fact support the antenna of a service provider.

Common Element, Limited. An area which is appurtenant to a condominium unit and which is reserved in the master deed for the condominium project for the exclusive use of less than all of the owners of the condominium project.

Common Land. A parcel or parcels of land with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and or occupants of individual building units in a subdivision or other planned development.

Common Open Space. An unoccupied area within a development which is reserved primarily for the leisure and recreational use of all the planned unit development residents and generally owned and maintained in common by them, often through a homeowners association. (ref. Open Space.)

Condominium Project. A plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Act 59, 1978).

Condominium Structure. The principal building or structure intended for or constructed upon a lot or building site, together with any attached accessory structures; e.g., in a residential development, the condominium structure would refer to the house and any attached garage. A “Condominium Structure” can also be a “Building Envelope.”

Condominium Subdivision (Site Condominium). A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended.

Condominium Subdivision Plan. The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

Condominium Unit. That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business or recreational use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land or space which either encloses or is enclosed by a building structure. The term “condominium unit” may, in certain instances, be equivalent to the term “lot,” for purposes of determining compliance of a condominium subdivision with provisions of this Ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio. (ref. Building Site.)

Congregate Housing. A dwelling facility providing shelter and services for the elderly which may include meals, housekeeping, and personal care assistance. Such a facility offers residents a semi-independent lifestyle, but does not provide the intensive personal care such as dispensing of medication and round the clock nursing care of a nursing home.

Drive-in. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, including customer communication facilities for banks or other uses.

Drive-through Restaurant. A restaurant in which all or a substantial portion of the business consists of serving foods and beverages in a ready-to-consume state from a drive-through window to patrons in motor vehicles. A drive-through restaurant may or may not also have indoor seating.

Dwelling. Any building or portion thereof, including a mobile or modular home, which is occupied in whole or in part as a home, residence or sleeping place, either permanently or temporarily, by one or more families but not including tents, recreational vehicles, motels, hotels or transient quarters associated with bed and breakfasts, tourist homes or cabins, boarding houses, lodging houses, or rooming houses.

Dwelling, Multiple-family. A building designed exclusively for, and containing three (3) or more dwelling units.

Dwelling, Single-family. A detached building designed exclusively for, and containing one (1) dwelling unit only.

Dwelling, Two-family. A detached building designed exclusively for, and containing two (2) dwelling units only.

Dwelling Unit. One (1) room or suite of two (2) or more rooms designed for use or occupancy by one (1) family for living and sleeping purpose with housekeeping facilities.

Easement. A grant of one or more of the property rights within or over a defined area by a property owner to and/or for use by the public, or another person or entity, for a specific purpose such as physical access or for a route for utilities.

Essential Public Services/Public Utilities. The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication or supply systems including mains, drains, sewers, governmentally-owned oxidation ponds, lagoons and other wastewater treatment facilities, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any zoning district. This definition shall not include antennas that are exterior transmitting or receiving devices mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunications signals or other communication signals. An essential service shall further not include towers which are designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes; radio and television transmission, towers; microwave towers; common carrier towers; or cellular telephone towers.

Family. An individual or a group of two or more persons related by blood, marriage, or adoption, including foster children and servants, or a group of persons not meeting the above description, living in a dwelling unit as a single housekeeping unit and intended to live together as a group for an indefinite future. This definition shall not include any fraternity, sorority, club, hotel, or other group of persons whose association is temporary or commercial in nature.

Family Day Care Home. A private residence in which the operator permanently resides as a member of the household in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Family day care home includes a home that

gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

Farm. A business enterprise intended for the production of raw farm products in which the entrepreneurial decisions (what shall we produce, how shall we produce it, for whom and for how much) are made by a family or other persons or entity engaged in the production of farm products, as described herein, for profit which provides a major source of income and capital for reinvestment.

Farm Products. Those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products; livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products; or any other product which incorporates the use of food, feed, fiber, fur or flora.

Floor Area. The gross floor area of all floors of a building or an addition to an existing building. For all office buildings and for any other building, except dwelling units where the principal use thereof shall include the basement, the basement floor area shall be included except that part thereof which contains heating and cooling equipment and other basic utilities.

Foster Care Facility. An establishment which provides supervision, assistance, protection or personal care, in addition to room and counsel, to persons. A foster care facility is other than a home for the aged or nursing home, licensed under Act No. 139 of the Public Acts of 1956, as amended, or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended.

(a) **Family Home.** A facility which provides foster care to six (6) or fewer persons.

(b) **Group Home.** A facility which provides foster care to seven (7) or more persons.

Grade, average. The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.

Grade, Finished. The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

Group Day Care Home. A private residence in which the operator permanently resides as a member of the household in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty four (24) hour a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

Home Occupation. A gainful occupation traditionally or customarily carried on in the home, being incidental to and not conflicting with the use of the home as a dwelling place

and not in conflict with its surroundings. Home occupations may include instruction in a craft or fine art.

Junkyard. A place where junk, waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including paper, rags, wrecked vehicles, used building materials, structural steel materials and equipment, and other manufactured goods that are worn, deteriorated, or obsolete.

Kennel. Any place where three (3) or more dogs, cats, or other domestic pet animals four (4) months of age or older are kept temporarily or permanently for any reason other than veterinary medicine.

Livestock. Animals including horses, cattle, bison, sheep, goats, swine, poultry, fowl, fur bearing rodents and other similar animals as may be domesticated for commercial production of food and fiber or breeding and recreational purposes. For the purposes of this Ordinance, the name livestock may be used synonymously with the term farm animals, but does not include household or barnyard pets such as dogs and cats.

Lot. A parcel of land separated from other parcels of land by description on a recorded plat or by metes and bounds description, including a building site as defined herein as relating to a condominium subdivision; having frontage upon a public or private street and having sufficient size to comply with the requirements of this Ordinance for minimum area, setbacks, coverage and open space. In the context of a site condominium project, a "lot" is that portion(s) of a condominium project designed and intended for separate ownership and/or exclusive use, as described in the project's Master Deed. Building Site shall be further defined as:

- (a) A condominium unit consisting of the area under a building envelope and the contiguous area around the building envelope which, by itself, meets the minimum area and yard requirements for lots as required by the Caledonia Village Zoning Ordinance as amended; or
- (b) The contiguous limited common element under and surrounding a condominium unit or units that is or shall be assigned to the owner(s) of the condominium unit(s) for the owner(s) exclusive use and which, together with the condominium unit or building envelope meets the minimum area and yard requirements for lots as required by the Caledonia Village Zoning Ordinance as amended.

Lot Area. The total horizontal area included within the lot lines. Where the front lot line is the centerline of a street, or where a portion of a lot lies within a street right-of-way, the lot area calculated to meet the requirements of this Ordinance shall not include that area inside the street right-of-way.

Lot, Corner. Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting a curved street(s) shall be a corner lot if the arc has a radius less than one hundred and fifty (150) feet.

Lot, Depth. The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the lot lines in the rear.

Lot, Interior. A lot other than a corner lot which, with the exception of a “through lot,” has only one lot line fronting on a street.

Lot, Through (also called double frontage). An interior lot having frontage on two (2) more or less parallel streets.

Lot Frontage. The length of the front lot line as it abuts a public street right-of-way or a private road right-of-way.

Lot Line, Front. The line(s) separating the lot from any street right-of-way, private street, or other access easement.

Lot Line, Rear. The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line.

Lot Width. The horizontal distance between side lot lines, measured at the front lot line and perpendicular to a straight line indicating the depth of the lot.

Manufactured Housing. A dwelling unit which is designed for long-term residential use and is wholly or substantially constructed at an off-site location. Manufactured housing includes mobile homes and modular housing units.

Master Deed. The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved by-laws for the project and the condominium subdivision plan for the project.

Medical Marijuana Business. A commercial business established for the purpose of carrying on the “medical use” of marijuana, as that term is defined by the Michigan Medical Marijuana Act, Initiated Law 1 of 2008, MCL 333.26421, *et seq.*, including, but not limited to, the cultivation, sale and/or distribution of medical marijuana.

Mobile Home. A structure, transportable in one or more sections, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. A mobile home shall not include modular homes, motor homes, or travel trailers.

(a) **Single Wide.** A mobile home with a longitudinal width of no greater than sixteen (16) feet for its full length.

- (b) **Double Wide.** A combination of two (2) mobile homes designed and constructed to be connected along the longitudinal axis, thus providing double the living space of a conventional single wide unit without duplicating any of the service facilities such as kitchen equipment or furnace.

Mobile Home Condominium Project. A condominium project where mobile homes are intended to be located upon separate sites which constitute individual condominium units.

Mobile Home Lot. A measured parcel of land within a mobile home park which is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive use of the occupants of a mobile home.

Mobile Home Park. A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

Mobile Home Subdivision. A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Michigan Act 288 of 1967, as amended.

Modular Home. A dwelling constructed to the Village's adopted building code which consists of prefabricated units transported to the site on a removable undercarriage or flat-bed and assembled for permanent location on the lot.

Motor Home. A self-propelled motor vehicle designed as self-contained living quarters and intended only for short-term occupancy.

Nursing or Convalescent Home. A structure with sleeping rooms where persons are housed or lodged and furnished meals and nursing care for hire.

Open Space. An unoccupied land area dedicated for no other use which is left in a natural or semi-natural state or which may be improved or partially improved for outdoor leisure, recreation or environmental education use.

Parking Area, Space or Lot. An off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, or as an accommodation to clients, customers, visitors, or employees. Parking area shall include access drives within the actual parking area.

Planning Commission. The Caledonia Village Planning Commission.

Pre-Existing Towers and Pre-Existing Antennas. Any tower or antenna for which a building permit or Special Land Use permit has been properly issued prior to the effective date of this Ordinance, or any tower or antenna for which no building or Special Land

Use permit was required, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Principal or Main Use. The primary or predominant use of a lot.

Private Communication Antenna. An apparatus installed out-of-doors that is capable of receiving or transmitting communications for radio and/or television, including Satellite Dish reception antennas, amateur radio transmitting and receiving antennas but excluding such antennas as commercial radio and television and microwave communication towers. Excluded are such other facilities as have been preempted from Village regulation by applicable state or federal laws or regulations.

Private Road Easement. An easement which is granted exclusively for private access to abutting parcels of land and which contains or is intended to contain a private road.

Recreational Vehicle or Unit. A vehicular type structure designed primarily as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. Recreational units of this type shall include, but shall not be limited to, the following: travel trailers, camping trailers, tent trailers, motor homes and truck campers. Recreational units shall also include, but shall not be limited to the following: boats, boat trailers, snowmobiles, snowmobile trailers, all-terrain vehicles, dune buggies, horse trailers, and similar equipment.

Residential District. The AG Agricultural-Residential District, the R-1 Low Density Single Family District, the R-2 Medium Density Single Family District, the R-3 Medium Density Multiple Family District and the R-4 High Density Multiple Family District, or any of them, shall be a "Residential District."

Right-of-Way. A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

Roadside Market Stand. A temporary building or structure designed or used for the display and/or sale of agricultural products produced on the premises upon which the stand is located.

Satellite Dish Antenna. A device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, parabola, cone or horn; and has a minimum dimension of three (3) feet or greater. Such a device shall be used to transmit and/or receive television, radio, or other electromagnetic communication signals between terrestrially and/or extraterrestrially-based sources. This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (Television Reception Only satellite antennas), and satellite microwave antennas.

Signs/Sign Terms.

Banner Sign. A sign intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind. National flags, flags of political subdivisions, and symbolic flags of any institution or business shall not be considered banners for the purpose of this Ordinance.

Billboard. Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed or fabricated on such land.

Business Sign. Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment conducted on the land where the structure is located, or products primarily sold, manufactured, processed, or fabricated on such land.

Construction Sign. A sign which displays the name or names of principal contractors, architects and lending institutions responsible for the construction on the site where the sign is placed.

Changeable Copy Sign. A sign upon which a display or message can be changed from time to time by either physical replacement of the display or message or by electronic modification of a light display or message.

Directional Sign. A sign giving directions or instructions which provides direction for vehicular or pedestrian circulation in or out of a development. A directional sign shall not contain advertising display copy.

Face of Sign. The area of a sign on which the copy or display is placed.

Freestanding Sign. A sign structurally separated from a building being supported by one or more poles or braces, or attached directly to the ground.

Government Sign. A sign erected and maintained by The Village of Caledonia, Caledonia Township, the county, state, or federal government for traffic direction or for designation of or direction to any school, hospital, historical site or public service, property, or facility.

Identifying Sign. Any structure on the same premises it identifies which serves only (1) to tell the name or use of any public or semi-public building or recreation space, club, lodge, church, or institution; (2) only to tell the name or address of an apartment house, hotel, or motels; or (3) only to inform the public as to the use of a parking lot.

Name Plate. A structure affixed flat against the wall of a building which serves solely to designate the name or the name and profession or business occupation of a person or persons occupying the building.

Pole Sign. A freestanding sign mounted on a pole or poles, braces, or other support structure.

Portable Sign. A sign not permanently affixed to the ground, a structure, or building.

Real Estate Sign. Any temporary structure used only to advertise with pertinent information the sale, rental, or leasing of the premises upon which it is located.

Sign Area. The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure.

Temporary or Portable Sign. A sign not permanently affixed to the ground, a structure or building.

Sign. A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any event, establishment, product, good, service or displaying or depicting other information.

Wall Sign. A sign including painted, individual letter, and cabinet signs, and signs on a mansard which are attached parallel to and extending not more than fifteen (15) inches from the wall of a building.

Sight Distance. The length of roadway visible to the driver. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway.

Site Plan. A scaled drawing(s) illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with zoning provisions.

Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Street. A publicly or privately owned and maintained right-of-way which affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, lane, boulevard, highway, road, or other thoroughfare, except an alley.

Structure. Anything constructed or erected, except a building, the use of which requires permanent location on the front or attachment to something having a permanent location on the ground.

Tower. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting (i.e., without guy wires or other external means of support) lattice towers, guyed towers and monopole towers, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals. The term includes the structure and any support for the structure.

Trash. The terms “trash,” “litter,” and “junk” are synonymous and each as used herein shall include the following: Used articles or used pieces of iron, scrap metal, automobile bodies or parts of machinery or junked or discarded machinery, used lumber, ashes, garbage, industrial by-products or waste, empty cans, food containers, bottles, crockery, utensils of any kind, boxes, barrels, and all other articles customarily considered trash or junk and which are not housed in a building.

Travel Trailer. A transportable unit which must be towed by a motor vehicle, intended for occasional or short-term occupancy as a dwelling unit during travel, recreational, or vacation use.

Usable Floor Area. The floor area of a dwelling, exclusive of garages, porches, or utility area.

Yard. An open space other than a court, unoccupied and unobstructed by any building or structure or portion thereof from thirty (30) inches above the general ground level of the lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to the height limitations set forth in this Ordinance and other requirements, if any, in this Ordinance regulating the obstruction of visibility in or across yards.

Yard - Front. A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way line and the main wall of the building or structure. In the case of waterfront lots, the yard fronting on the street shall be considered the front yard.

Yard - Rear. A yard, unoccupied except for accessory buildings, extending across the full width of the lot, the depth of which is the distance between the rear lot line and the rear wall of the main building.

Yard - Side. A yard between a main building and the side lot line, extending from the front yard to the rear yard. The width of the side yard shall be measured from the nearest point of the side lot line to the nearest part of the main building.

Zoning Administrator. One or more Caledonia Village zoning officials as appointed by the Village Council. A Zoning Administrator may carry out the functions of building inspector, zoning administrator or zoning enforcement officer designated in this Ordinance. The Village President shall assign primary responsibility among the one or more persons appointed as Zoning Administrator to undertake the tasks assigned by this Ordinance, subject to direction from the Village Council.

CHAPTER III GENERAL PROVISIONS

Section 3.1 The Effect of Zoning. Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in compliance with this Ordinance. The provisions of this chapter shall apply to all zoning districts.

Section 3.2 Restoration of Unsafe Building. Subject to the provisions herein dealing with nonconforming uses, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

Section 3.3 Area, Height and Use Conditions and Exceptions.

- (a) **Required Area or Space.** A lot or lots in common ownership or a yard, court, parking area, or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership or a yard, court, parking area, or other space shall not be divided, altered or reduced so as to increase its noncompliance with such minimum requirements.
- (b) **Exceptions.** The following buildings and structures shall be exempt from height regulations in all zoning districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which do not exceed fifty (50) feet in height. Additions to existing buildings and structures which now exceed the height limitations of their zoning district, up to the height of an existing building or structure on the same lot, are permitted if the lot is large enough to encompass a circular area with a radius equal to at least the height of the structure or building.

Section 3.4 Essential Services. The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication or supply systems, including mains, drains, sewers, lagoons, oxidation ponds and other wastewater treatment equipment and facilities owned or operated by governmental units, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles and other similar equipment and accessories reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission, or for the public health, safety or general welfare is permitted in any zoning district.

Electrical substations, gas regulator stations, utility pump and metering stations, gasoline or oil pipelines and other public utility or governmental unit buildings, and also any facilities which are potentially hazardous or noxious, may be permitted in any zoning district but only with the prior

approval of the Planning Commission as a special land use. Unless other screening is permitted by the Planning Commission, electrical substations, gas regulator stations, and similar public utility buildings and facilities shall be enclosed with a fence or wall at least six (6) feet in height.

Essential services shall not include antennas, which are exterior transmitting or receiving devices mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic wave digital signals analog signals radio frequencies wireless telecommunications signals or other communication signals. An essential service shall further not include towers which are designed and constructed primarily for the purpose of supporting one or more antennas for telephone; radio and similar communication purposes; radio and television transmission towers; microwave towers; common-carrier towers; or cellular telephone towers.

All essential services shall be constructed and maintained in a neat and orderly manner, free from dead or diseased vegetation, and such facilities shall be landscaped in accordance with the requirements of this zoning ordinance.

Section 3.5 Required Yard or Lot. All lots, yards, parking areas, or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the zoning district in which they are located.

Section 3.6 Control of Heat, Glare, Fumes, Dust, Noise and Vibration. Every use shall be so conducted and operated that it does not create a nuisance or so that it is not dangerous by reason of heat, glare, fumes, dust, noise or vibration beyond the lot on which the use is located.

Section 3.7 Temporary Uses or Structures Requiring Zoning Inspection Authorization.

- (a) Upon application, the Building Inspector shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Building Inspector for four (4) additional successive periods of six (6) calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
- (b) Upon application, the Building Inspector shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and the area and shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Building Inspector for four (4) additional successive periods of six (6) calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

Section 3.8 Accessory Uses. In any zoning district, accessory uses, incidental only to a permitted use, are permitted when located on the same lot; provided, however, that such accessory uses shall not involve the conduct of any business, trade or industry.

Section 3.9 Accessory Buildings.

- (a) In any zoning district, an accessory building may be erected, either detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, an accessory building shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building. The architectural character of all accessory buildings shall be compatible with, and similar to, that of the principal building.
- (b) Detached accessory buildings shall not be located closer than five (5) feet to the rear lot line or, in the case of a waterfront lot, closer than forty (40) feet to the water's edge (except that pump houses may be located within forty (40) feet of the water's edge if they do not exceed three (3) feet in height); detached accessory buildings shall not occupy more than thirty percent (30%) of any required rear yard space; they shall not be closer to any side lot line or front lot line than the principal building is permitted to be.
- (c) The distance between a detached accessory building and any principal building shall not be less than ten (10) feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two (2) buildings is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device.
- (d) A garage may be constructed, erected and placed in the front yard of any waterfront lot which is platted or otherwise of record as of the effective date of this Ordinance if it is an accessory building and if it is located not less than ten (10) feet from the edge of the street.
- (e) No accessory building or structure shall include residential or living quarters for human beings except a guest house located in the AG or R-1 Zoning Districts.

Section 3.10 Principal Building on a Lot. Not more than one principal building shall be placed on a lot or other parcel of land unless such lot or parcel is used for multiple family, agricultural, commercial or industrial purposes and unless such use complies with all applicable provisions of this Ordinance.

Section 3.11 Double Frontage Lots. Building on lots having frontage on two (2) intersecting or nonintersecting streets shall comply with front yard requirements on both such streets.

Section 3.12 Minimum Provisions for Single Family Dwellings. Any single-family dwelling erected or placed on a lot or parcel of land shall satisfy the following minimum requirements:

- (a) It shall have a minimum width of 24 feet, extending for at least 3/4 of its length (in the application of this sentence, width shall mean the shortest elevation of the dwelling).
- (b) There shall be a minimum floor to ceiling height of seven and one-half (7 1/2) feet.
- (c) The dwelling may not be incompatible in design and appearance with other dwellings in the same district.
- (d) The dwelling shall comply with the minimum floor area requirements for the district in which it is located.
- (e) The dwelling shall be connected to a public sewer system and public water supply system, or to such private sewer facilities and water facilities as are approved by the Kent County Health Department or by other agency having jurisdiction.
- (f) All construction and all plumbing, electrical apparatus and insulation in and about the dwelling shall be of a type and quality complying with the Village Building Code or the Mobile Home Construction and Safety Standards as promulgated by the U. S. Department of Housing and Urban Development. The dwelling shall satisfy all applicable roof, snow load and strength requirements.
- (g) The placement, installation and construction of a mobile home shall meet the following additional requirements:
 - (1) It shall have a sloped roof of a pitch of not less than 3/12 for and on the principal or main portion of the mobile home, but may have either a sloped roof or a flat roof on a secondary portion or a secondary addition to the mobile home, where such portion or such addition does not constitute the principal part or the main part of the mobile home.
 - (2) Additions to the mobile home shall comply with the Village Building Code. The exterior of any addition shall be compatible with the exterior appearance of the mobile home.
 - (3) The mobile home shall comply in all pertinent respects with the Village Building Code. It shall be secured to the premises by an anchoring device complying with regulations of the Michigan Mobile Home Commission. An exposed towing mechanism or undercarriage shall not be permitted.

Section 3.13 Additional Setbacks for Structures Adjacent to Major Streets. Notwithstanding any other provisions of this Ordinance, no building or structure shall be constructed, erected or enlarged on a lot or parcel of land abutting Cherry Valley Avenue (State Highway M-37) unless there is a minimum building setback, measured from the centerline of said street, of at least eight (80) feet.

Section 3.14 General Lighting and Screening Requirements.

- (a) All lighting upon any premises, regardless of zone, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises.
- (b) Except as otherwise provided in this Zoning Ordinance, all premises used for commercial or industrial purposes, and located within a “C-1,” “C-2,” or “1-1” District shall be screened from adjoining premises located in any “R-1,” “R-2,” “R-3,” or “R-4” District by either of the following:
 - (1) A natural compact planting area of deciduous or evergreen trees which maintain their density and screening effect throughout the calendar year, not less than five (5) feet in height and five (5) feet in width in one growing season and maintained in a neat and attractive manner.
 - (2) An artificial wall or fence of sufficient density or compactness to screen the activities of the business or industry from the view of occupants of adjoining premises, not less than five (5) feet in height and maintained in a neat and attractive manner.
 - (3) No such planting area, wall or fence shall be closer than ten (10) feet from any adjoining street right-of-way line.
- (c) In the event of any controversy as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the Planning Commission shall have the right, and is hereby given the authority, to determine whether the same is in violation of these screening and lighting provisions and the purposes sought to be accomplished thereby.

Section 3.15 Dismantled, Non-Operating or Unlicensed Motor Vehicles.

- (a) No person, firm or corporation shall store, place or permit to be stored or placed, or allow to remain on any parcel of land for a period of more than thirty (30) days in one year, a dismantled, partially dismantled, or inoperable motor vehicle, unless the same is kept in a wholly enclosed public or private garage or unless authorized as a special use by the Planning Commission in accordance with Chapter XIII of this Ordinance.
- (b) No person, firm or corporation shall park or store upon premises within the Village a motor vehicle in operating condition which is not regularly used for the purpose for which it was manufactured or designed unless the same is kept within a wholly enclosed public or private garage or unless authorized as a special use by the Planning Commission in accordance with Chapter XIII of this Ordinance.

Section 3.16 Minimum Street Frontage and Lot Width. Every lot or parcel supporting a building or principal use shall have continuous frontage on a public street or an approved private

street. Except as provided in this section, the required minimum lot width shall be met or exceeded at the street right-of-way line and shall be maintained for the entire depth of the lot. The creation of flag lots with long, narrow access areas that widen to a building site in the rear is prohibited. Minimum width shall be that required for lot width as specified in the applicable zoning district. When a lot has frontage on a curved street segment or a cul-de-sac, the following shall apply:

- (a) Minimum lot frontage may be reduced to not less than forty (40) feet. The measurement shall be made along the chord of the arc running between the side property lines intersecting with the street right-of-way line.
- (b) Where a lot frontage reduction is justified, minimum lot width must be met within a distance from the street right-of-way line that is no greater than two times the otherwise required minimum front yard building setback distance.
- (c) Where a lot frontage reduction is justified, but where the required lot width is not achieved within the minimum front yard building setback distance that is otherwise required for the district, the minimum front yard building setback line shall be considered to be the point at which the minimum lot width is achieved.
- (d) In situations where side lot lines must converge, the minimum lot width shall be maintained behind the front yard building setback line for a distance of at least thirty (30) feet plus the minimum distance of the required rear yard for the applicable zoning district.

Section 3.16A Maximum Lot Depth to Width.

- (a) The maximum depth of a lot or parcel of land shall be not more than three times the width of the lot or parcel, unless a greater depth in relation to width is permitted under subsection (b) of this section.
- (b) In the event that a greater depth of a lot or parcel of land, in relation to the width of the lot or parcel, is necessary because of exceptional topography or other physical conditions of the land, or because the failure to approve such greater depth would result in the wasting, landlocking or inefficient use of a significant portion of a lot or parcel, or create serious difficulties in gaining access to lands or prevent the reasonable development thereof, then such greater depth, in relation to minimum width, may be permitted by the Planning Commission as a special exception use, without public hearing being required.

Section 3.17 Fences.

- (a) No fence or wall shall be erected or maintained within the right-of-way of any public street, alley or other public way.

- (b) Any fence or wall erected or maintained along or near a lot line or other boundary line shall be located and maintained so that no part of the fence or wall is located upon or encroaches on or above any other lot or parcel of land.
- (c) All fences and walls shall be kept in good repair and condition. Both sides of a fence, including a fence erected along a property line, shall be maintained in good repair and condition. In the case of a wood or board fence, located along a property line, the posts of the fence shall be located so as to face to the interior of the parcel of land on which the fence is located.
- (d) Barbed wire, spikes, nails or any other sharp point or instrument on top of or on the sides of any fence is prohibited in all residential districts, except in the AG District. Any electric current or charge in any fence is prohibited, except in the AG District. Barbed wire may, however, be placed on the top of fences enclosing public utility facilities, or commercial and industrial storage areas when deemed necessary in the interest of public safety.
- (e) Fences located on public utility, commercial and industrial property shall be limited to a height of twelve (12) feet above the grade at the base of the fence; provided, however that subsection (f) shall apply to such public utility, commercial or industrial property where such property is adjacent to residential property and further provided that subsection (g) shall apply to fences in the front yard.
- (f) Fences and walls located on residential properties, or that abut residential properties, shall be limited to a height of six (6) feet above grade at the base of the fence, along that portion of the property abutting the residential property; provided, however, that subsection (g) shall apply to fences and walls located in the front yard area.
- (g) Walls and fences not more than four (4) feet in height are permitted in the front yard area in all districts except that no fence or wall over thirty (30) inches in height above the curb line, shall be erected within ten (10) feet of a street right-of-way line.

Section 3.18 Governmental Improvements. The provisions of this Ordinance shall be applicable to, and enforceable against, the Village of Caledonia itself and all other governmental agencies and units, federal, state and local.

Section 3.19 Health Department Approval. No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities, located therein and which is to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities, as the case may be, does not comply with the rules and regulations of the state and county health departments governing waste and sewage disposal.

Section 3.20 Removal of Topsoil, Sand, Gravel, or Other Such Materials.

- (a) No topsoil, sand, gravel or other such materials shall be removed from any property, nor shall there be a substantial moving or rearranging of such materials on a property or the substantial dumping or placing of such materials on a property unless such removal, rearrangement or dumping is reviewed by the Planning Commission and authorized by the Village Council in accordance with Chapter XIII of this Ordinance.
- (b) In addition to the requirements of Chapter XIII, applications for such special use authorization shall include:
 - (1) The legal description of the property to be affected during this period.
 - (2) A description of the nature and extent of the proposed removal, including type and average depth of minerals to be removed, type and average estimated depth of all existing overburden and estimated time within which the proposed removal will be completed.
 - (3) A topographic map showing the existing and proposed final contour lines and elevations at a five (5) foot maximum contour interval.
 - (4) A description of what precautionary measures will be taken to ensure public safety, the exclusion of unauthorized persons from the premises, and lateral support of adjoining and surrounding lands and structures.
 - (5) A list of all permanent and temporary equipment, whether stationary or mobile.
 - (6) A description of the proposed route or routes which will be used in transporting the extracted material over public streets or over any private properties not included within the boundaries of the proposed removal.
- (c) In addition to requirements in Chapter XIII, the following standards shall be considered by the Planning Commission and Village Council in considering such special use authorization:
 - (1) The size of the property from which such topsoil, sand, gravel or other such materials are to be removed.
 - (2) The amount of topsoil, sand, gravel or other such materials which is to be removed.
 - (3) The purpose of such removal.
 - (4) The effect of such removal on adjoining property.

- (5) The effect of such removal in causing a safety hazard, creating erosion problems, or altering the groundwater table, or other problems of a similar nature.
 - (6) The potential for such removal to cause the creation of sand blows, stagnant water pools, bogs, or any type or kind of injurious areas.
 - (7) The effect of such removal on the environment and the natural topography and the potential destruction of a natural resource.
 - (8) Potential traffic congestion and problems because of trucks or other vehicles or means utilized to haul and transport the materials removed.
- (d) As a part of any special use permits authorized under this section, the Planning Commission may establish restrictions, conditions and limitations with respect to such special use covering the following matters, among others: maximum amount of material which can be removed, maximum duration of removal operations, quantity of removal equipment, proximity of removal area to highways and adjacent lands, transferability of the special use permit, steepness of slopes form in removal areas, erection of gates or fences, hours of operation, reclamation of completed removal areas, accumulation of stockpiles, accumulation of water in removal areas, performance bonds, inspection of removal area, and use of public roads and highways. The Planning Commission may establish such other reasonable requirements as are necessary to protect the public health, safety and welfare.
- (e) Special use permits authorizing such special use shall not be for a period of more than five (5) years and shall not be renewed unless all of the conditions of the original permits are being met.
- (f) Topsoil or sand may be removed from a lot without special use authorization for the purpose of erecting or constructing a building or structure, provided there is compliance with all other requirements of this Ordinance. In addition, topsoil or sand may be moved from one part of a lot to another part if such action will not cause a sandblow, stagnant water pools, bogs, possible future injury to adjoining properties, or create any other type or kind of injurious area.

Section 3.21 Garages Occupied as Dwelling Units. Any building erected as a garage or in which the main portion is a garage, shall in no case be occupied for dwelling purposes unless it is auxiliary to a residence already being occupied upon the premises and unless it also complies with all the provisions of this Ordinance relating to buildings for residence purposes.

Section 3.22 Keeping of Pets and Livestock.

- (a) The keeping of more than three dogs and/or cats, the keeping of pigeons having free access outside their cages, or the keeping of poultry, pigs, hogs, horses or other livestock is prohibited within any residential district or within or upon any

area located within one hundred fifty (150) feet of any residential district, except that this provision shall not apply to farms in the AG Agricultural-Residential District, if lawful under Section 5.2(a) of this Ordinance, nor shall it apply to the periodic grazing of sheep and goats, for the control of grasses and other vegetation in the AG District, as authorized under Section 5.2(h) of this Ordinance.

- (b) Any litter of dogs and any litter of cats which causes the limit of dogs and cats as stated in subsection (a) to be exceeded shall not be a violation of this section for a period of four months after the birth of any such litters; provided, however, that no more than two such litters shall be permitted to remain on the described lands in any residential district within any consecutive twelve-month period.
- (c) All poultry, pigs, hogs, horses, livestock or more than three dogs and/or three cats are also prohibited in any area of the Village if the same become obnoxious by reason of odors or noise; provided, however, that this provision shall not apply to lawful farms in the AG District under the terms of Section 5.2(a) of this Ordinance or to the periodic grazing of sheep and goats for the control of grasses and other vegetation on certain lands in the AG District, under the terms of Section 5.2(h) of this Ordinance.

Section 3.23 Trash, Litter or Junk in Yards.

- (a) No person shall accumulate, place, store or allow or permit the accumulation, placement or storage of trash, litter or junk on any lands in the Village, except in a lawful sanitary landfill, a lawful junkyard or on a temporary basis only, not to exceed eight (8) days storage in water tight storage receptacles designed for the temporary accumulation of trash (but the placement and maintenance of such storage receptacles shall be subject to subsections (b) and (c) of this section).
- (b) Storage receptacles used for the accumulation of trash shall not be located within a street right-of-way or other public right-of-way, except that such receptacles may be placed within public rights-of-way for a period not to exceed two (2) days, for the purpose of being emptied by licensed trash haulers.
- (c) Any storage receptacles for the accumulation of trash which are designed to contain more than two (2) cubic yards of trash or other material shall not be placed within the front yard of any lot or parcel of land.
- (d) Any storage receptacle placed and used for the purpose of accumulating debris from the renovation, remodeling, alteration or demolition of a building or structure shall be located on the site only so long as the remodeling, renovation, alteration or demolition is occurring, and such storage receptacles shall be promptly removed thereafter.
- (e) Any storage receptacle for the accumulation of trash which is designed to contain more than two cubic yards of trash or other material shall be screened so as to

block the view of the storage receptacle from adjacent or nearby lands. If two or more storage receptacles for the accumulation of trash and which are designed to contain, when taken together, are placed or maintained on any lot or parcel of land, a total of at least two cubic yards of trash or other material, all such storage receptacles shall be screened so as to block the view of such storage receptacles from adjacent or nearby lands. Any provision in this subsection to the contrary, however, any storage receptacle used for the temporary accumulation of debris from the renovation, remodeling, alteration or demolition of a building or structure need not be screened from adjacent or nearby lands during the period of such renovation, remodeling, alteration or demolition.

- (f) Any storage receptacle placed and used for the purpose of accumulating trash, litter, junk or debris shall be kept securely covered at all times, except that storage receptacles designed and used for the accumulation of building materials, in connection with the construction, renovation, or demolition of buildings and structures, may remain uncovered during the period of such construction, renovation, or demolition.

Section 3.24 Loud Motor Vehicles. Motor vehicles producing loud or excessive noise, as determined by the Building Inspector, are prohibited on lands or public streets.

Section 3.25 Swimming Pools.

- (a) No swimming pool (referred to as “pool” in this section) shall be constructed, erected or installed on any lands in the Village unless a building permit therefore has first been obtained from the Zoning Administrator.
- (b) The outside edge of the pool wall shall not be located nearer than four (4) feet to any lot line; provided, however, that if any part of the pool walls are more than two (2) feet above the surrounding grade level, then the outside edge of the pool wall shall not be placed nearer than ten (10) feet from any lot line.
- (c) Any pool constructed of poured concrete shall have a bottom not less than six (6) inches thick and walls not less than eight (8) inches thick, such walls and bottom to be reinforced with metal reinforcing rods. Liner type pools, whether above ground or below ground, may be constructed or installed if (1) the liner used is made and finished by a manufacturing concern which, as a part of its business, regularly makes swimming pool liners out of plastic, rubber, fiberglass, steel or any other such product; and (2) the bottom and walls of such liner type pool are constructed in accordance with the specifications of the manufacturer of the liner.
- (d) Each pool shall be enclosed by a fence or wall of a height of at least four (4) feet, which is constructed in such manner that no person may enter the yard or the area where the pool is located without passing through a gate or door located on the lot on which the pool is situated. The fence may be placed on or anywhere inside the lot lines of the lot where the pool is situated; provided, however, that no fence may be erected closer to a street than a building may be erected in the zoning

district in which the pool is located. If the pool is a permanent, above ground type with a wall height of at least four (4) feet above the surrounding ground surface and if the pool is of such construction as not to be readily climbed by children, then the ends of the fence may be attached to the pool structure and the fence need be erected only around the immediate area of the ladder or other means of access to the pool.

- (e) All gates and doors which permit access to the pool area shall be capable of being locked and shall be locked at all times when no person is present on the lot on which the pool is located. All gates and doors which permit access to the pool area shall be of a self-closing, latch type, with the latch on the inside of the gate or door; in addition, each such gate or door shall have a lock located on the inside thereof.

Section 3.26 Yard or Garage Sales. Yard or garage sales, as defined herein, are permitted in residential zones, but only as provided in this paragraph. A yard or garage sale is defined as a retail sale, not lasting longer than three (3) days, of household goods. Such sale shall include an auction, as well as ordinary retail transactions. Any signs used to advertise such sale shall be subject to the provisions of Chapter XV hereof, and all of such signs shall be removed immediately upon the conclusion of the sale. No such sale lasting longer than one (1) day shall occur unless authorized as a special use by the Building Inspector in accordance with Chapter XIII of this Ordinance. The Building Inspector shall authorize such use for a period not to exceed three (3) days; provided, however, that the Building Inspector shall authorize such use for a period not to exceed three (3) days; provided, however, that the Building Inspector finds no evidence that a traffic hazard or public nuisance may be created thereby.

Section 3.27 Vehicle Repairs on Residential Premises. Major mechanical work on passenger cars, owned by the occupant of a dwelling on the premises, is permitted, provided such work is performed entirely within a building and provided further that no vehicles or parts of vehicles not in legally operating condition shall be stored outside a building.

Section 3.28 Basement Dwellings. The use of a basement of a partially constructed or planned building as a dwelling is prohibited in all zones.

Section 3.29 Moving of Buildings. The moving of a building to a different location shall be considered to be the erection of a new building and all provisions, regulations and requirements of this Ordinance concerning the erection of a new building shall be equally applicable to such moving of a building to a different location.

Section 3.30 Home Occupations. Home occupations are permitted as authorized under the terms of this Ordinance. Any home occupation duly permitted and authorized is subject to the following requirements:

- (a) It shall be conducted entirely within a residential building or a building accessory to a residential building.

- (b) It shall not change the character of the building in which it is conducted and shall not constitute, create or increase a nuisance.
- (c) It shall be carried on only by the inhabitants of the residential building in which it is located and not more than one other person.
- (d) If such home occupation involves the use of mechanical equipment, such equipment shall be compatible as to electrical power and other aspects to that typically in use for household and related purposes.
- (e) A home occupation shall not occupy more than one-half of one story of a residential building.
- (f) Not more than four more motor vehicles, present at any one time in connection with a home occupation, shall be permitted on the premises where a home occupation is conducted, except for motor vehicles owned and used by the occupants of the residential building.
- (g) A medical marijuana business shall not be allowed or established as a home occupation.

Section 3.31 Camper or Trailer Parking or Storage. The parking or storage of campers, trailers, motor homes, boats, boat trailers or horse trailers, is prohibited in the front yard of any premises located in the R-1, R-2, R-3, or R-4 zones, except that such items may be temporarily parked [not exceeding three (3) days] in a front yard for loading or unloading and other temporary purposes.

Section 3.32 Performance Bonds. To assure compliance with this Zoning Ordinance and any conditions imposed hereunder, the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Village, covering the estimated cost of improvements, be deposited with the Clerk of the Village to insure a faithful completion of the improvements. Any cash deposit shall be rebated as work progresses, in reasonable proportion to the ratio of work completed on the proposed improvements.

Section 3.33 Standards for Discretionary Decisions. In addition to any specific standards which may be applicable, the following standards and guidelines shall serve as the basis for decisions involving special land uses, planned unit developments, and other discretionary decisions contemplated by the terms of this Ordinance: The proposed land use shall be, and shall be determined to be:

- (a) Compatible with adjacent uses of lands.
- (b) Consistent with, and promote the intents and purposes of, this Ordinance.
- (c) Compatible with the natural environment.

- (d) Consistent with the capacities of public services and facilities affected by the proposed use.
- (e) Protect the public health, safety and welfare.

Section 3.34 Mobile Homes Outside of Mobile Home Parks. Mobile homes which are permitted by this Ordinance to be located outside of mobile home parks shall, in addition to complying with all applicable provisions of this Ordinance and the Village Building Code, satisfy all of the following requirements.

- (a) There shall be a foundation around the entire exterior perimeter of the mobile home, consisting of wood, masonry, concrete or other approved material, having a minimum depth of forty-two (42) inches below grade, with a maximum height of sixteen (16) inches of exposed foundation and a minimum of eight (8) inches of exposed foundation above grade, of the same design as required by the Village Building Code for single-family dwellings. The mobile home shall be permanently anchored to this foundation and be watertight.
- (b) No mobile home shall be erected or installed unless the yard, lot area, and height regulations for the zoning district in which the mobile home is located are fully complied with.
- (c) The minimum width of any mobile home, at its narrowest point, shall be twenty-four (24) feet.
- (d) The mobile home shall have a minimum height between floor and ceiling of seven and one-half (7 1/2) feet.
- (e) It shall have a sloped roof of a pitch of not less than 3/12 for and on the principal or main portion of the mobile home, but may have either a sloped roof or a flat roof on a secondary portion or a secondary addition to the mobile home, where such portion or such addition does not constitute the principal part or the main part of the mobile home.
- (f) Mobile homes are dwellings under the terms of this Zoning Ordinance and shall not be considered as accessory to a permitted use.

Section 3.35 Reversion of Rezoned Areas. If no construction has commenced within one year from the effective date of the rezoning of any A or R Zoning District lands to any C or I Zoning District lands, the Planning Commission may initiate proceedings to rezone such lands to their original zoning classification. Upon written request from the property owner or other property interest holder, the Planning Commission may grant one extension of up to one (1) year, upon a showing that construction has been delayed because of unavoidable or unforeseen circumstances, but will then begin within the extension period requested.

Section 3.36 Antennas and Towers. The Village finds that it is in the public interest to permit the siting of wireless communications, towers and antennas within its boundaries. It is the Village's intent to permit the siting of wireless communications, towers and antennas within its boundaries. It is the Village's intent to protect and promote the public health, safety, and welfare by regulating the siting of wireless communications, towers and antennas within its boundaries.

(a) **Permitted Uses.** The uses listed in this part (a) are allowed in any zoning district and shall not require a special land use permit:

- (1) **Village Property.** Antennas or towers located on property owned, leased, or otherwise controlled by the Village are permitted uses, provided a license or lease authorizing such antenna or tower has been approved by the Village. This provision shall not be interpreted to require the Village to approve a license or lease. As to any such antenna or tower, the applicant shall submit a site plan for review and approval by the Planning Commission. The Planning Commission may impose reasonable conditions upon the antenna and tower, including conditions listed in Section 13.3(i).
- (2) **Existing Electric Towers.** Antennas located upon legally existing lattice electric transmission towers where such towers do not exceed the height limitation of the zoning district in which they are located, or the limitation contained in Section 3.3(b), whichever is higher.
- (3) **Co-location.** Co-location of an antenna on an approved tower.
- (4) **Replacement of Equipment.** Replacement of existing equipment such as antennae, wires, cables, etc.
- (5) **Ground Equipment.** Addition of non-structural ground equipment such as cabinets, meters, ice bridges, etc., provided it is located within a previously approved enclosure.
- (6) **Other Antennas and Towers.** Antennas or towers that do not exceed a permanent height of fifty (50) feet; provided, however, the height of a satellite dish antenna, including any platform or structure upon which it is mounted, shall not exceed fifteen (15) feet. In residential districts, no satellite dish exceeding a diameter of three (3) feet may be located on the roof of any dwelling, accessory building or other building. Satellite dish antennae shall be permanently attached to a foundation.

(b) **General Requirements.**

- (1) **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use on the same lot shall not preclude the installation of an antenna or tower on the lot.

- (2) **Lot Size.** Even though antennas or towers may be located on leased portions of a lot, the dimensions of the entire lot shall be used to determine if the installation of a tower or antenna complies with the regulations of the applicable zoning district, including but not limited to setback requirements, lot coverage requirements, and other such requirements.
- (3) **Inventory of Existing Sites.** Each applicant for an antenna and/or tower shall provide an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are within the jurisdiction of the Village or within one mile of the Village border, including specific information about the location, height, and design of each tower or antenna.
- (4) **Tower Finish.** Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- (5) **Antenna Color.** An antenna and its supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible.
- (6) **Tower Site.** At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- (7) **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (8) **Monopole Design Favored.** Towers shall employ a monopole design whenever possible. Guyed tower supports and lattice towers shall not be permitted absent compelling evidence that the public health, safety and welfare require guyed tower supports or a lattice tower, rather than a monopole design.
- (9) **State or Federal Requirements.** All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised and applicable standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal

agency. Failure to comply with such revised and applicable standards and regulations shall constitute grounds for the Village to seek a court order, authorizing the Village or its designee to remove the tower or antenna at the owner's expense.

- (10) **Building Codes, Safety Standards.** The owner of a tower or antenna shall ensure its structural integrity by maintaining it in compliance with standards contained in applicable state or local building codes and applicable standards published by the Electronic Industries Association or any similar successor organization, as amended from time to time. If the Village suspects that a tower or antenna does not comply with such codes and standards and constitutes a danger to persons or property, then the Village may proceed under applicable State of Michigan law (i.e. Michigan Public Act 144 of 1992, as amended, or any successor statute) or common law to bring the tower or antenna in to compliance at the owner's expense.
- (11) **Measurement.** Tower setbacks and separation distances shall be measured and applied to facilities located in the Village without regard to municipal and county jurisdictional boundaries.
- (12) **Not Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this ordinance. They shall not be regulated or permitted as essential services, public utilities or private utilities.
- (13) **Franchises.** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Village have been obtained, they shall file a copy of all required franchises with the Zoning Administrator.
- (14) **Signs.** No signs or advertising shall be allowed on an antenna or tower. However, the tower owner shall post a sign designating a person to contact in an emergency, together with the person's telephone number and address.
- (15) **Metal Towers.** Metal towers shall be constructed with a corrosion-resistant material.
- (16) **No Interference.** Towers shall not interfere with television or radio reception on surrounding properties.
- (17) **Roads.** All access roads shall be constructed and maintained to Village standards for a private street with forty (40) feet right-of-way (easement) width.
- (18) **Removal of Tower.** When a wireless communication facility has not been used for 180 days or more, the wireless communication tower shall

be removed within 60 days of the applicable deadline. Thereafter, upon at least 30 days' written notice, the Village may remove or secure the removal of the facility or required portions thereof, with the actual costs and reasonable administrative charges to be assessed to the owner and/or applicant of the property and, to the extent available, drawn from the security posted regarding the tower pursuant to this ordinance. The removal of the antenna or other necessary equipment from the facility, or the cessation of operations, transmissions or the reception of radio signals, shall be deemed the beginning of non-use.

- (19) **Site Plan Review.** A site plan prepared in accordance with this ordinance shall be required.

Section 3.37 Maps, Drawings and Renderings. Whenever under the terms of this Ordinance the Planning Commission may be considering or reviewing a proposed land use or activity, the Planning Commission may require the submission of maps, drawings, renderings and such other information as will assist the Planning Commission in its consideration or review of the proposed land use or activity.

Section 3.38 Resubmission of Matters to Planning Commission. For a period of ninety (90) days following a decision by the Planning Commission, no reconsideration of the decision shall be undertaken unless the Planning Commission in its sole discretion determines that there has been a material change in the applicable facts and circumstances.

Section 3.39 Private Streets.

- (a) Private streets shall be permitted only when reviewed and approved as part of a planned unit development under the terms of Chapter XII or as a part of a site condominium under the terms of Chapter XXII.
- (b) The requirements of Section 22.5(b), pertaining to the design, layout, construction, use and maintenance of private streets, and the requirements of Section 22.5(c), pertaining to the installation of public utilities, shall be the minimum requirements for all private streets.
- (c) Private streets included in planned unit developments that do not involve the condominium form of ownership shall nevertheless comply with Section 22.5(b) and (c), but restrictive covenants, easements, road maintenance agreements and other documents pertaining to the establishing and maintenance of private roads, may be substituted for the Master Deed provisions and Condominium Bylaw provisions that are referred to in said Section 22.5(b) and (c).

Section 3.40 Adult Uses.

- (a) Adult uses shall be permitted only when authorized as special land uses under the terms of Section 13.2(j) of this Ordinance.

- (b) Adult uses shall be permitted as special land uses only in the C-1 and C-2 Districts.
- (c) Adult uses shall be as defined in Section 13.3(f) of this Ordinance.

Section 3.41 Wind Energy Conversion Systems. A Wind Energy Conversion System (“WECS”), including all necessary substations, accessory buildings and operation and maintenance offices, shall comply with all of the terms and conditions of this section.

- (a) **Definitions.** For the purposes of this section, the following terms and phrases shall be defined as provided below:
 - (1) **Wind Energy Conversion System (“WECS”).** A wind turbine generator or other device or devices designed to extract energy from the wind and supply it in the form of electrical energy that is suitable for use by the local electrical transmission utility, or that is used to provide electricity on the site or property on which the WECS is located. A WECS shall also include a MET tower, which is a tower containing instrumentation such as anemometers that is used to assess wind resources.
 - (2) **Horizontal Axis Wind Turbine (HAWT).** A WECS designed with a rotor mounted on a horizontal axis of rotation. The rotor thus sweeps through a vertical plane perpendicular to the motion of the wind.
 - (3) **Rotor.** An element of a wind turbine which acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
 - (4) **Nacelle.** The structure designed to “yaw” (turn) into the wind that is mounted on top of the tower and houses the rotor support shaft, mechanical and electrical components, and generator.
 - (5) **Tower.** The structure, above grade, that supports the nacelle, rotor assembly, and other components.
 - (6) **Tower Foundation.** The tower support structure, below grade, that supports the weight of the WECS tower.
 - (7) **Blade Clearance.** In reference to a horizontal axis rotor, the distance from grade to the lowest point of the rotor’s swept arc.
 - (8) **Tower Height.** The height from grade to the highest vertical point of the swept rotor arc. In the case of a WECS with a horizontal axis rotor, the total height includes the distance from grade to the rotor axis of rotation within the nacelle plus one-half the swept rotor diameter.

- (9) **Sub-station.** An electrical construction designed to collect and modify electrical energy produced by the WECS for the purpose of supplying it to the local electrical utility.
- (b) **Application.** Applications for a WECS shall include the following:
- (1) A site plan, which, in addition to the site plan requirements of Chapter XIV, shall include the following:
 - (i) The proposed location, size, height and type of all WECS, including MET towers, and the setback distance between the proposed towers and applicable property lines, the nearest residential units and residentially-zoned properties.
 - (ii) The location of all existing structures and buildings within three hundred (300) feet of the parcel subject to the special land use request.
 - (iii) The proposed location of all access roads, underground and overhead cabling and utilities.
 - (iv) The physical size and electrical nameplate capacity of the proposed WECS, including the total height and the swept rotor diameter.
 - (v) Proposed screening, buffering and tower lighting, if required.
 - (vi) A visual representation of the WECS including scale elevations or photographs.
 - (2) A copy of the applicant's proof of ownership or control of the land, including any lease with the landowner(s) for the WECS. Any such lease must include a provision requiring the applicant to remove all equipment and restore the site upon cessation of WECS operations.
 - (3) The manufacturer's specifications indicating:
 - (i) The rated nameplate output, in kilowatts or megawatts, of the wind turbines included in the WECS.
 - (ii) Safety features and sound characteristics.
 - (iii) Type of material used in foundation, tower, blade, and rotor construction.
 - (4) A noise impact study which includes information on the noise levels to be generated by the use, measured in dB(A) at the property line, the tower site or such other location as directed by the Planning Commission.

- (5) Proof that the applicant has obtained or applied for approval from all county, state or federal agencies having jurisdiction over the proposed use, or any aspect thereof.
 - (6) An environmental impact study, shadow flicker study and/or avian and wildlife impact study may be required by the Planning Commission. The applicant shall take appropriate measures to mitigate or eliminate adverse effects identified in such studies, including assurance that shadow flicker shall not have a significant adverse effect upon any adjacent property or any occupied building or residence.
 - (7) A decommissioning plan which includes the anticipated life of the project, the estimated decommissioning costs net of salvage value in current dollars, the method for ensuring that funds will be available for decommissioning and restoration and the anticipated manner in which the project will be decommissioned and the site restored.
- (c) **Requirements.** A WECS, including MET towers, shall comply with the following requirements:
- (1) **Review and Approval Procedures.** A WECS that is fifty (50) feet in height or greater must receive special land use approval from the Planning Commission in compliance with Chapter XIII of this Ordinance. A WECS that is less than fifty (50) feet in height shall obtain site plan review pursuant to Chapter XIV, but shall not require special land use approval if it complies with the requirements of this Section 3.41(c) and with the following requirements:
 - (i) The diameter of the rotor does not exceed thirty (30) feet.
 - (ii) The wind turbine generator is to provide energy only to the property where the tower is located, not to any other lands.
 - (iii) An individual tower complying with this subsection may, on an intermittent basis, supply excess power to the grid; provided, however, the individual tower shall not in any calendar year supply a net surplus of power to the grid.
 - (iv) If the WECS is installed on a building or structure, the diameter of the rotor shall not be greater than 20 feet and the WECS height shall be less than fifty (50) feet in height as measured from grade. The WECS must be safely and permanently secured to the building or structure.
 - (2) **Setbacks.** WECS towers shall comply with the minimum required building setbacks for the district in which the WECS tower is located or a minimum setback equal to one and one-half times the height of the highest

WECS, whichever is greater. Notwithstanding the foregoing, a MET tower shall be set back no less than a distance equal to the height of the MET tower.

For the purposes of determining whether a proposed WECS or MET tower complies with the setback requirements of a district, the dimensions of the entire lot or parcel of land shall control, even though the WECS may be located on smaller leased parcels within such lot or parcel.

- (3) **Setback Modifications.** Setbacks may be reduced or increased from the minimum setback requirements of this section, in the discretion of the Planning Commission. Pursuant to this provision, the Planning Commission shall consider the technical needs of the applicant for a modification of setbacks, the feasibility of alternate locations, the proximity of existing dwellings, and the potential for adverse impacts that noise, shadows and other features may have on adjacent uses.
- (4) **Noise.** A WECS regulated under the terms of this section shall be designed, located and operated so as to cause no serious adverse effect on other lands or other land uses by reason of noise. A WECS shall not exceed 55dB(A) at the property line closest to the WECS. Exceptions for neighboring property may be permitted if the written consent of the property owners is provided. The sound pressure level may be exceeded during short-term events such as utility outages or severe wind storms.

Constant velocity turbines shall be required; provided, however, that if variable speed turbines are proposed, the applicant shall submit additional data concerning noise generated when the revolutions per minute of such turbines exceed 24 rpm's, and the Planning Commission may decline to approve any such variable speed turbines.

- (5) **Lighting.** WECS towers shall not be illuminated by artificial means and shall not display strobe lights unless required by the Federal Aviation Administration or other state or federal authority having jurisdiction. The minimum FAA lighting standards shall not be exceeded and all lighting shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Towers that are lighted shall be avoided unless no feasible alternative is available.
- (6) **Shadow Flicker.** Any WECS shall be designed, located and installed so that shadow flicker does not have a significant adverse effect upon adjacent property, upon any occupied building or residence and shall be designed, located and operated so as to cause no serious effect on other lands or land uses by reason of the impact of its shadow.

- (7) **Impact on View; Towers in Front Yard.** Towers shall only be placed, to the extent possible, at locations that do not dominate the view from existing streets or detract from the neighborhood aesthetics. Locations on hilltops or in front yards are to be avoided. A tower shall not be located in any front yard unless it is set back at least two hundred (200) feet from the front lot line.
- (8) **Tower Height.** Any WECS, including the foundation, the tower, the rotor and all other components shall have a total height not exceeding one hundred ninety nine (199) feet, as measured from the ground at the base of the tower to the tip of the blade of the rotor, when the blade is in a vertical position; provided, however, the Planning Commission may modify the total height to permit a lighted tower that exceeds one hundred ninety nine (199) feet upon a showing that the tower will be harmonious with adjacent, neighboring land uses and will not have a substantial adverse effect on such adjacent or nearby lands or land uses.
- (9) **Compliance with Law.** All WECS and the construction, installation, operation, maintenance and repair thereof shall comply with all federal, state and local laws, ordinances and regulations, including the Michigan Tall Structures Act and all airport zoning requirements.
- (10) **FAA Standards.** All structures shall comply with applicable standards and regulations of the Federal Aviation Administration and any other state or federal agency having jurisdiction.
- (11) **Building Codes and Maintenance.** All structures constructed shall comply with the standards contained in applicable state and local building codes and shall be regularly maintained in good, safe working order. The applicant shall maintain a maintenance log that the Village can review upon request.
- (12) **Tower Foundation.** All towers shall be permanently secured to a stable foundation.
- (13) **Tower Grounding.** All towers shall be grounded to protect against damage from lightning.
- (14) **Tower Appearance.** All wind turbines and towers shall be finished in a single, non-reflective matte finished color which minimizes the visual impact of the wind farm.
- (15) **Blade Clearance.** The minimum vertical blade tip clearance from grade shall be twenty (20) feet for a wind turbine employing a horizontal axis rotor (HAWT).

- (16) **Tower Construction.** A freestanding tubular monopole tower shall be required for any tower that is more than fifty (50) feet in height. An anti-climbing device or design shall be used on all towers, regardless of their height.
 - (17) **Tower Graphics.** No portion of any tower or blades shall display any name, symbol, words, letters, advertising message, graphic representation or other written or pictorial matter. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification.
 - (18) **Power Lines.** All power lines from a WECS and connecting to a sub-station or grid, shall be underground, unless otherwise permitted by the Planning Commission.
 - (19) **Safety.** All electrical and mechanical components of the system shall be securely locked. Spent lubricants and cooling fluids shall be promptly and safely removed from the premises. Signage on the access roads shall warn visitors of the danger of falling ice.
 - (20) **Electromagnetic Interference.** No WECS shall be installed in any location where its proximity with existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected parties that will restore reception to the level present before operation of the WECS. No WECS shall be installed in any location within the line of site of an existing microwave communication link where its operation is likely to produce electromagnetic interference in the link operation unless the interference is insignificant.
- (d) **Discretionary Conditions.** The Planning Commission, in its reasonable discretion, may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any WECS regulated by the terms of this section. Such other terms and conditions may include, though are not limited to, the following:
- (1) The screening or buffering of structures (other than towers) with landscaping, berms, walls or any combination thereof. Fencing may be required by the Planning Commission to secure the site and tower.
 - (2) The prohibition on the construction or occupancy of dwellings on the lands where the WECS is located, within the separation distances specified by this section.
 - (3) The preservation of existing trees and other existing vegetation not required to be removed for installation of the WECS.

- (4) The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS tower or accessory buildings or structures.
- (5) The providing of a performance bond or letter of credit, in favor of the Village, and conditioned upon the timely and faithful performance of all required conditions of the special land use or site plan approval, including but not limited to the timely and complete removal of a WECS, or any individual tower, wind turbine generator, or other device or equipment regulated under the terms of the section, upon the failure of the same to be removed when required. Such performance bond or letter of credit shall remain in effect during and after the operation of a WECS, until the cessation of operations and the removal of the same.

(e) **Removal.**

- (1) A WECS or other individual device, structure or equipment regulated under the terms of this section shall be removed not later than when the device or equipment is no longer operating or when it has been abandoned.
- (2) For purposes of this section, a WECS shall be deemed abandoned when it has not produced electrical energy for twelve (12) consecutive months. Operation of the WECS for less than 168 hours shall not be considered production for purposes of this subsection.
- (3) The failure to timely remove a WECS or any device, structure or equipment regulated by the terms of this section shall be a violation of this Ordinance.
- (4) In the event that the owner or operator of a WECS fails to remove the same after the ceasing of operations or after abandonment thereof, the Village may proceed with all appropriate enforcement and remedial action, including but not limited to the obtaining of funds pursuant to the applicable performance bond or letter of credit, and the use of such funds to accomplish the removal of all non-operating or abandoned towers, wind turbine generators, accessory structures and other devices and equipment regulated hereunder.

- (f) **Inspections.** Upon the provision of reasonable prior notice to the site operator, the Village Zoning Administrator and/or his or her designated representative may inspect any property for which special land use or site plan approval has been granted pursuant to this section to determine whether the site complies with the applicable requirements of law and the terms of the special land use approval.

- (g) **Lattice Towers Prohibited.** Wind turbines utilizing a lattice tower structure shall be prohibited, unless the WECS is less than 50 feet in height and a suitable anti-climbing device is installed on such tower.

Section 3.42 Cultivation, Sale and Distribution of Medical Marijuana.

- (a) **Purpose.** It is not the intent of this section to prohibit any use or activity allowed by the Michigan Medical Marihuana Act (the “Medical Marijuana Act”), Initiated Law 1 of 2008, MCL 333.26421, *et seq.*, but to enact regulations which addresses the possible adverse secondary effects of facilities used for the cultivation, sale or distribution of medical marijuana; to ensure that such facilities are not covertly used for unlawful purposes not authorized by the Medical Marijuana Act; and to insure that these types of facilities do not create or cause adverse effects that might contribute to the blighting or downgrading of the surrounding area.

A primary goal of regulating these uses is to prevent a concentration of the uses in any one area of the Village; to minimize and/or prevent the possible adverse secondary effects of such uses; to insure the integrity of the Village’s residential areas; and to protect the integrity of churches and other places of religious worship, schools, licensed day-care facilities, parks and playgrounds, and other areas where persons congregate. Nothing in this section shall be construed as permitting a violation of any state or federal law.

- (b) **Site Plan Approval.** Any building or structure proposed to be used for a medical marijuana business shall be subject to prior review and approval by the Planning Commission under Chapter 26, Site Plan Review, and the following additional provisions:

- (1) **Location.** A medical marijuana business shall be located only in the “C-2” Highway Business District. Further, a medical marijuana business shall not be located or operated within 100 feet of existing land uses, as follows:

- (i) Another medical marijuana business. This requirement may be waived upon a determination by the Planning Commission that a second medical marijuana business would not contribute to blighting or an excessive concentration of such uses.
- (ii) A church, synagogue, mosque or other place of religious worship, or a park, playground, school, library or licensed day-care facility.
- (iii) A recreational or residential zoning district, or any residential dwelling.

The measurement of the above-stated isolation-distance requirement shall be made by extending a straight line from the property line of the medical marijuana business to the nearest property line occupied by any other use

or to the property line of any church, synagogue, mosque or other place of religious worship, park, playground, library, school, licensed day-care facility, or any adjacent residential or recreational district.

(2) **Signs/Building Exterior.**

- (i) All signs used in connection with a medical marijuana business shall comply with the requirements of Chapter XV.
- (ii) Products offered at the medical marijuana business, or any picture or other representation of the same, shall not be displayed on any sign or upon any exterior portion of the building so as to be visible from a point outside the business.

(3) **Lighting Requirements.**

- (i) All off-street parking areas and premises entries of medical marijuana businesses shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the medical marijuana business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct. The lighting shall be fully shielded so as to prevent light or glare from spilling onto neighboring lands.
- (ii) The premises of a medical marijuana business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination intensity of not less than two foot-candles of light as measured at the floor level.

(c) **Information Submission.** In addition to the information and documents required to be submitted with an application for site plan approval, an applicant seeking to establish a medical marijuana business shall also submit the following:

- (1) A floor plan of the premises showing the following:
 - (i) The location of the service counter, demonstrating that there is an unobstructed view of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - (ii) Location of all overhead lighting fixtures, along with demonstration that the minimum interior illumination requirements of this Section will be satisfied.

- (iii) Identification of any portion of the premises in which patrons will not be permitted.
 - (iv) Identification of the use of each room or other area of the premises.
 - (v) Identification of the area(s), if any, that will be used for the cultivation of marijuana, and the total square footage that will be used for this purpose.
- (2) A current certificate and straight-line drawing, prepared within 30 days prior to the application, by a land surveyor depicting the property lines and the structures of the proposed medical marijuana business, showing a circle extending 200 feet from the property line of the property on which the business will be located, and depicting the property line of any church, synagogue, other place of worship, park, playground, library, school, licensed day care facility, or any recreational or residential zoning district or residences within 200 feet of the property on which the business will be located.
 - (3) An outdoor lighting plan, along with demonstration that the minimum exterior illumination requirements of this section will be satisfied.
 - (4) Proof that the proposed operator of the medical marijuana business has been issued a registry identification card, to serve as a registered primary caregiver.
- (d) **Conditions Requiring Rejection of Site Plan Application.** The Planning Commission shall not approve a site plan for a medical marijuana business if it finds one or more of the following to be true:
- (1) An applicant is under 21 years of age.
 - (2) An applicant is overdue in payment to the Village of fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a medical marijuana business.
 - (3) An applicant has failed to provide information required by the Zoning Ordinance or has knowingly answered a question or request for information falsely.
 - (4) The premises to be used for the medical marijuana business have not been approved by the building inspector and the zoning enforcement officer as being in compliance with applicable laws and ordinances.
 - (5) The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has operated a medical marijuana business which was determined to be a public nuisance under laws of any

state, county, city, village or township within one year prior to the date of application.

- (6) The applicant is not in good standing or authorized to do business in Michigan.
- (7) The application fee has not been paid.
- (8) The application for the proposed medical marijuana business is in violation of or is not in compliance with, any of the provisions of this section.
- (9) The applicant or owner has been convicted of the possession, sale or distribution of a controlled substance or any felony, in any jurisdiction, within the last twenty years.

(e) **Operational Requirements.**

(1) **Age Requirement Regulations.**

- (i) No persons under the age of 18 shall be permitted in a medical marijuana business at any time, unless the person is a registered qualifying patient and is accompanied by a parent or legal guardian.
- (ii) It shall be the duty of the operator of each medical marijuana business to ensure that an attendant is stationed at each public entrance to the business at all times during the business's regular business hours and to post notice at the entrance to the premises stating no person under 18 years of age is permitted on the premises, except as provided in paragraph (e)(i) above. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the medical marijuana business, except as allowed by this section.

(2) **Hours of Operation.** Hours of operation of a medical marijuana business shall be limited to 8:00 a.m. to 8:00 p.m.

(3) **Other Regulations, Permits or Licenses.** The provisions of this section do not waive or modify any other provision of this Ordinance, any other Ordinance of the Village, or any county, state or federal law or regulation.

(4) **Alcohol Prohibited.** Open alcohol shall not be permitted in any part of a medical marijuana business that is open to the public, during operating hours. Notice of this prohibition shall be posted at the entrance to the medical marijuana business.

- (5) **Inspection.** An applicant or owner shall permit all representatives of the Village, Kent County and the State of Michigan to inspect the premises of the medical marijuana business for the purpose of determining compliance with this ordinance and other applicable laws. Access shall be granted at any time during regular business hours and at other times upon reasonable notice.
- (6) **Exterior Structural Requirements.** All medical marijuana businesses shall comply with the following exterior structural requirements:
- (i) The merchandise or activities of the medical marijuana business shall not be visible from any point outside the business.
 - (ii) The exterior portion of a medical marijuana business shall not utilize flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any kind.
 - (iii) It shall be unlawful for the owner or operator of a medical marijuana facility to allow exterior portions of the facility to be painted any color other than one neutral color.
- (7) **Interior Structural Requirements.**
- (i) The interior of the premises shall be configured in such a manner that there is an unobstructed view of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - (ii) Any interior space used for the cultivation of marijuana shall have an area not greater than reasonably necessary to support the cultivation of not more than 60 individual marijuana plants, and shall be located in a separate locked room that is not accessible to the general public. The separate room shall be enclosed by solid walls extending from the floor to a solid fixed ceiling. The Zoning Administrator shall review the design to ensure it provides a secure design.
 - (iii) The interior premises shall be equipped with 24-hour electronic, video surveillance equipment, sufficient in nature and scope to deter and detect unlawful theft of marijuana from the premises.
- (8) **Standards of Conduct.** The following standards of conduct shall be adhered to on the premises of the medical marijuana business by all employees, managers, officers and agents of any medical marijuana business:

- (i) An owner, manager or an employee shall not allow the illegal possession, use, or sale of alcohol or controlled substances on the premises.
 - (ii) An owner, manager, or an employee shall not illegally offer for sale or illegally allow to be consumed or possessed upon the premises, or upon any parking areas, sidewalks, walkways, access ways or grounds of the premises, narcotics or dangerous drugs or fermented malt, malt, vinous or spirituous beverages.
 - (iii) At least one manager who is a registered primary caregiver shall be on duty at all times that the business is open to the public.
 - (iv) All doors to public areas on the premises shall remain unlocked during business hours.
 - (v) All activity of the medical marijuana business, including but not limited to the cultivation, dispensing and sale of medical marijuana, shall be performed indoors.
 - (vi) Smoking or consumption of medical marijuana shall not be allowed on any portion of the site of the medical marijuana business that is open to the public.
 - (vii) The sale of drug paraphernalia shall not be permitted on the premises.
 - (viii) A medical marijuana business shall be operated in compliance with the applicable rules promulgated by the Michigan Department of Community Health.
- (f) **License Required.** It shall be unlawful to operate or cause to be operated a medical marijuana business in the Village without a valid license issued pursuant to the provisions of this section. The granting of site plan approval under this section and Chapter 26 does not confer a license on the applicant.
- (1) **License Application.**
- (i) All applicants for a medical marijuana business license shall file an application for such license with the Zoning Administrator. Each individual applicant, partner of a partnership, member of a limited liability company, partner of a limited liability partnership, officer and director of a corporation and all managers shall be named in each application.
 - (ii) The applicant shall be qualified according to the provisions of this section and the premises shall be inspected and found to be in

compliance with the law by the Village building inspector and zoning enforcement officer.

- (iii) If a person who wishes to operate a medical marijuana business is an individual, he or she shall sign the application for a license as the applicant. If a corporation is listed as owner of a medical marijuana business or as the entity which wishes to operate such a business, each individual having a 10 percent or greater interest in the corporation shall sign the application for a license as applicant, along with each officer and director of the corporation. If the applicant is a partnership, each partner shall sign the application. If the applicant is a limited liability company each member shall sign the application. If the applicant is a limited liability partnership each partner shall sign the application.
- (iv) Applications for a license, whether original or renewal, must be made to the zoning enforcement officer by the intended operator of the medical marijuana business. Applications shall be submitted by hand delivery to the office of the Zoning Administrator during regular working hours. The intended operator shall be required to give the following information on the application:
 - (I) If the applicant is an individual, the individual shall state his legal name and address and any aliases.
 - (II) If the applicant is a partnership, the partnership shall state its complete name, and the names and addresses of all partners and whether the partnership is general or limited.
 - (III) If the applicant is a limited liability company, the limited liability company shall state its complete name and the names and addresses of all of its members.
 - (IV) If the applicant is a limited liability partnership, the limited liability partnership shall state its complete name and the names and addresses of all of its partners.
 - (V) If the applicant is a legal entity other than a partnership, limited liability company or limited liability partnership, the application shall state its complete name, the date and place of its organization, the names, addresses and capacity of all officers and directors of a corporation and of the chief executive officer and manager for any other legal entity, and the name of the resident agent and the address of the registered office for service of process.

- (VI) The name under which the medical marijuana business is to be operated.
 - (VII) The telephone number of the medical marijuana business.
 - (VIII) The address and legal description of the real property on which the medical marijuana business is to be located.
 - (IX) Whether the applicant or any other individual identified in the application had a previous medical marijuana business license under this section, or from another city, village, township or county, denied, suspended or revoked, including the name and location of the medical marijuana business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.
 - (X) Whether the applicant or any other individual identified in the application holds any other licenses under this section or other similar medical marijuana business ordinance from another city, village, township or county and, if so, the names and locations of such other permitted business.
 - (XI) Whether the applicant or any other individual identified in the application has been guilty of a felony in any jurisdiction within the past 20 years. A computerized criminal background check for each such individual, as specified by the Village Zoning Administrator, shall accompany the application.
 - (XII) The applicant's driver license number, social security number and/or federally issued tax identification number.
- (v) The application shall be accompanied by the following:
- (I) Payment of the application and license fee, as established by resolution of the Village Council.
 - (II) If the applicant is an individual, satisfactory proof that he or she is at least 21 years of age.
 - (III) If the applicant is a Michigan corporation, a certified copy of the articles of incorporation, together with all amendments thereto, and a current good standing certificate.

- (IV) If the applicant is a corporation incorporated in another state, a certified copy of the certificate of authority to transact business in Michigan.
 - (V) If the applicant is a partnership, a copy of the partnership agreement, together with all amendments thereto.
 - (VI) If the applicant is a Michigan limited partnership, a certified copy of the certificate of limited partnership, together with all amendments thereto.
 - (VII) If the applicant is a limited partnership formed under the laws of another state, a certified copy of the Michigan certificate of registration.
 - (VIII) If the applicant is a Michigan limited liability company, a certified copy of the articles of organization, together with all amendments thereto.
 - (IX) If the applicant is a limited liability company formed under the laws of another state, a certified copy of the Michigan certificate of authority.
 - (X) If the applicant is a Michigan limited liability partnership, a certified copy of the registration of limited liability partnership, together with all amendments thereto.
 - (XI) If the applicant is a limited liability partnership formed under the laws of another state, a certified copy of the Michigan registration.
 - (XII) Documentation identifying the owner(s) of the real property on which the medical marijuana business is to be situated.
 - (XIII) If the person(s) identified as the owner(s) of the real property identified above is not also the owner(s) of the medical marijuana business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the medical marijuana business to have or obtain the use and possession of the real property that is to be used for the purpose of the operation of the medical marijuana business.
- (vi) The application shall contain a statement under oath that:

- (I) The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct.
- (II) The applicant has read the provisions of this section.
- (vii) A separate application and license shall be required for each medical marijuana business.
- (2) **Term of License.** All licenses issued pursuant to this section shall be for a term of one year. The term shall commence on January 1 of each year and terminate upon December 31 of the same year. Applications for a license filed at any other time during the year shall be treated as if they were filed January 1 of that year and shall terminate on December 31 of the same year, and no proration of fees shall be permitted.
- (3) **Revocation of License.** The Zoning Administrator shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months. The Zoning Administrator shall also revoke a license if he or she determines that any of the following has occurred:
 - (i) Any condition exists that would warrant disapproval of a license as set forth in this section;
 - (ii) A licensee, operator manager or employee has engaged or has allowed patrons or employees to engage in acts of misconduct on the licensed premises in violation of any Village Ordinance, the laws of the State of Michigan or of the United States when the licensee, operator, manager or employee knew or should have known such acts were taking place; or
 - (iii) Repeated disturbances of public peace have occurred within the licensed medical marijuana business or upon any parking areas, sidewalks, access ways or grounds of the licensed medical marijuana business involving patrons, employees, or the licensee.

When the Zoning Administrator revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a medical marijuana license for one year from the date revocation became effective. If, subsequent to revocation, the Zoning Administrator finds that the basis for the revocation has been corrected or abated, a license may be reinstated if at least 90 days have elapsed since the date the revocation became effective.

- (g) **Definitions.** For the purposes of this section, the words and phrases as contained herein shall have the same meanings as set forth in the Medical Marijuana Act

and the regulations adopted thereunder by the State of Michigan Department of Community Health.

- (h) **Savings Clause/Severability.** Should any provision of this section be declared, by a court of competent jurisdiction, to be preempted by the Medical Marijuana Act or to be otherwise invalid or unenforceable under state, county or federal law, such declaration shall not affect the validity of any other provision of this section, which shall remain fully enforceable.

- (i) The site plan review and licensing requirements of this section do not apply to a qualifying patient's use of his or her home for the cultivation of medical marijuana for solely personal use, but such use shall otherwise comply with all requirements of the Medical Marijuana Act and the rules promulgated thereunder

CHAPTER IV ZONING DISTRICTS

Section 4.1 Zoning Districts. The Village of Caledonia is hereby divided into the following zoning districts:

- (a) AG Agricultural- Residential District
- (b) R-1 Low Density Single Family District
- (c) R-2 Medium Density Single Family District
- (d) R-3 Medium Density Multiple Family District
- (e) R-4 High Density Multiple Family District
- (f) C-1 Neighborhood Commercial District
- (g) C-2 Highway Business District
- (h) I-1 Light Industrial District
- (i) PUD Planned Unit Development District

Section 4.2 Zoning Map. The locations and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled “Zoning Map, Village of Caledonia, Kent County, Michigan,” which accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the Zoning Map, the following rules of construction and interpretation 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 indicated as approximately following village boundaries shall be construed as following village boundaries.
- (d) Boundaries indicated as approximately following shorelines of lakes or stream beds shall be construed as following such shorelines of lakes or stream beds, and in the event of change in the location of shorelines of lakes or stream beds shall be construed as moving with the shoreline of the lakes or stream bed.
- (e) Lines parallel to streets, without indication of the depth from the street, shall be construed as having a depth of two hundred (200) feet from the front lot line.

- (f) Boundaries indicated as approximately following property lines, section lines, or other lines of a government survey, shall be construed as following such property lines, section lines, or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.

Section 4.3 Areas Not Included Within a District. In every case where land has not been included within a district on the Zoning Map, such land shall be in the AG Zoning District.

CHAPTER V
AG AGRICULTURAL-RESIDENTIAL DISTRICT

Section 5.1 Description and Purpose. This zoning district supports single family residences, agricultural activities and certain other low intensity land uses. This district may be designated as the AG Agricultural-Residential District.

Section 5.2 Permitted Uses. Land, buildings and structures in the AG Agricultural-Residential District may be used for the following purposes only, unless otherwise provided in this Ordinance:

- (a) Farms for both general and specialized farming, except feeder lots, chicken hatcheries, poultry farms, and farms for the raising of swine, together with farm dwellings and buildings and other installations necessary to such farms.
- (b) Greenhouses, nurseries, orchards, vineyards and apiaries.
- (c) Riding stables where horses are boarded and/or rented.
- (d) Single family dwellings.
- (e) Public athletic grounds, golf courses, parks, and other public uses and facilities.
- (f) Kennels.
- (g) Roadside market stands selling farm products during not more than ninety (90) days in one (1) calendar year, if approved by the Building Inspector. The Building Inspector shall grant such approval if the roadside market stand will not cause traffic hazards or a public nuisance.
- (h) The periodic grazing of sheep and goats, for the control of grasses and other vegetation, on lands comprising the irrigation area of any public sanitary sewage lagoon system.
- (i) State licensed residential facilities and child care facilities provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six (6) or less persons; but not including adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
- (j) Wind Energy Conversion Systems which are less than 50 feet in height and which comply with the requirements of Section 3.41.

Section 5.3 Special Land Uses. The following uses may be permitted when authorized as special land uses:

- (a) Home occupations when authorized by the Planning Commission under Chapter XIII. In considering such special land use, the Planning Commission shall consider the following additional standards: the nature of the home occupation; the effects of the home occupation on the surrounding neighborhood; potential traffic congestion; provisions for off-street parking.
- (b) Removal of topsoil, sand and gravel when authorized by the Planning Commission and Village Council under Chapter XIII.
- (c) Roadside market stands selling farm products during more than ninety (90) days in any one calendar year when authorized by the Planning Commission under Chapter XIII. A roadside market stand shall be set back at least 30 feet from any street right-of-way. An approved driveway permit shall be obtained from the Kent County Road Commission. Such special land use approval may be given on an annual basis or for such other duration as the Planning Commission may determine.
- (d) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions.
- (e) Wind Energy Conversion Systems which comply with Section 3.41.

Section 5.4 Other Uses. The following other uses may be permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 3.9.
- (b) Signs as regulated under Chapter XV.
- (c) Parking and loading as regulated under Chapter XVI.

Section 5.5 Area Regulations. No building or structure shall be erected nor shall any building or structure be enlarged unless the following yards, lot area and lot width requirements are provided and maintained in connection with such building, structure or enlargement.

- (a) **Front Yard.** There shall be a front yard of not less than fifty (50) feet.
- (b) **Side Yard.** For residential buildings and structures, there shall be total side yards of not less than fifty (50) feet; provided, however, that no side yard shall be less than twenty (20) feet. For all other buildings, there shall be two (2) side yards of not less than fifty (50) feet each.

- (c) **Rear Yard.** There shall be a rear yard of not less than seventy-five (75) feet.
- (d) **Lot Area and Width.** The minimum lot area and lot width shall be one (1) acre and two hundred (200) feet, respectively, provided, however, that any lot or parcel of land which is platted or otherwise of record at the effective date of this section and which does not satisfy the minimum area and/or width requirement of this subsection, may be used for single family dwelling use only if permitted under the terms of Section 3.3(b) of this Ordinance.

Section 5.6 Minimum Floor Area. Each dwelling unit shall have a minimum of one thousand (1,000) square feet of usable floor area above basement level, of which seven hundred (700) square feet shall be located on the floor nearest to ground level at the front of the building. For purposes of this measurement, floor levels separated by five feet or less shall be considered one floor level.

Section 5.7 Height Regulation. No building or structure shall exceed thirty-five (35) feet in height.

CHAPTER VI
R-1 LOW DENSITY SINGLE FAMILY DISTRICT

Section 6.1 Description and Purpose. This zoning district is intended for low density single family residential uses, together with associated recreational, religious and educational facilities.

Section 6.2 Permitted Uses. Land, buildings and structures in the R-1 District may be used for the following purposes only, unless otherwise provided in this Ordinance:

- (a) Single family dwellings.
- (b) State licensed residential facilities and child care facilities provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six (6) or less persons; but not including adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
- (c) Wind Energy Conversion Systems which are less than 50 feet in height and which comply with the requirements of Section 3.41.

Section 6.3 Special Land Uses. The following uses may be permitted when authorized as special land uses:

- (a) Private and public schools, libraries, museums, and similar uses, when owned and operated by a governmental agency or non-profit organization when authorized by the Planning Commission under Chapter XIII.
- (b) Parks, playgrounds, community centers, governmental, administration, or service buildings which are owned and operated by a governmental agency or a non-commercial organization when authorized by the Planning Commission under Chapter XIII.
- (c) Churches, when authorized by the Planning Commission under Chapter XIII.
- (d) Home occupations when authorized as a special use by the Planning Commission in accordance with Chapter XIII. In considering such authorization, the Planning Commission shall consider the following additional standards: the nature of the home occupation; the effects of the home occupation on the surrounding neighborhood; potential traffic congestion; provisions for off-street parking.
- (e) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not

include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions.

Section 6.4 Other Uses. The following other uses may be permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 3.9.
- (b) Signs as regulated under Chapter XV.
- (c) Parking and loading as regulated under Chapter XVI.

Section 6.5 Area Regulations. No building or structure, nor the enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements.

- (a) **Front Yard.** There shall be a front yard of not less than thirty (30) feet.
- (b) **Side Yard.** There shall be total side yards of not less than twenty (20) feet; provided, however, that no yard shall be less than seven (7) feet.
- (c) **Rear Yard.** There shall be a rear yard of not less than twenty-five (25) feet; provided, however, that, in the case of lakefront lots, the rear yards shall be not less than seventy-five (75) feet.
- (d) **Lot Area and Width (Single Family).** The minimum lot area and width for a single family dwelling shall be twenty thousand (20,000) square feet and one hundred (100) feet, respectively; provided, however, that any lot or parcel of land which is platted or otherwise of record at the effective date of this section and which does not satisfy the minimum area and/or width requirement of this subsection, may be used for single family dwelling use only if permitted under the terms of Section 3.3(b) of this Ordinance.

Section 6.6 Minimum Floor Area. Each dwelling unit shall have a minimum of one thousand (1,000) square feet of usable floor area above basement level, of which seven hundred (700) square feet shall be located on the floor nearest to ground level at the front of the building. For purposes of this measurement, floor levels separated by five feet or less shall be considered one floor level.

Section 6.7 Height Regulation. No building or structure shall exceed thirty-five (35) feet in height.

CHAPTER VII
R-2 MEDIUM DENSITY SINGLE FAMILY DISTRICT

Section 7.1 Description and Purpose. This zoning district is intended for medium density single family residential and associated uses.

Section 7.2 Permitted Uses. Land, buildings or structures in the R-2 District may be used for the following purposes only unless otherwise provided in this Ordinance:

- (a) Single family dwellings.
- (b) State licensed residential facilities and child care facilities provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six (6) or less persons; but not including adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

Section 7.3 Special Land Uses. The following uses may be permitted when authorized as special land uses:

- (a) Two family dwellings.
- (b) Private and public schools, libraries, museums, and similar uses, when owned and operated by a governmental agency or non-profit organization when authorized by the Planning Commission under Chapter XIII.
- (c) Parks, playgrounds, community centers, governmental, administration, or service buildings which are owned and operated by a governmental agency or a non-commercial organization when authorized by the Planning Commission under Chapter XIII.
- (d) Churches, when authorized by the Planning Commission under Chapter XIII.
- (e) Home occupations when authorized as a special use by the Planning Commission in accordance with Chapter XIII. In considering such authorization, the Planning Commission shall consider the following additional standards: the nature of the home occupation; the effects of the home occupation on the surrounding neighborhood; potential traffic congestion; provisions for off-street parking.
- (f) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not

include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions.

Section 7.4 Other Uses. The following other uses may be permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 3.9.
- (b) Signs as regulated under Chapter XV.
- (c) Parking and loading as regulated under Chapter XVI.

Section 7.5 Area Regulations. No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements.

- (a) **Front Yard.** There shall be a front yard of not less than thirty (30) feet.
- (b) **Side Yard.** There shall be total side yards of not less than twenty (20) feet; provided, however, that no side yard shall be less than seven (7) feet.
- (c) **Rear Yard.** There shall be a rear yard of not less than twenty-five (25) feet; provided, however, that in the case of lakefront lots, the rear yard shall not be less than seventy-five (75) feet.
- (d) **Lot Area and Width (Single Family).** The minimum lot area and width for a single family dwelling shall be ten thousand (10,000) square feet and eighty (80) feet, respectively; provided, however, that the minimum lot area and width for lots not served with public sewer shall be twelve thousand (12,000) square feet and one hundred (100) feet, respectively; provided, however, that any lot or parcel of land which is platted or otherwise of record at the effective date of this section and which does not satisfy the minimum area and/or width requirement of this subsection, may be used for single family dwelling use only if permitted under the terms of Section 3.3(b) of this Ordinance.
- (e) **Lot Area and Width (Two-Family).** The minimum lot area and width for a two-family dwelling shall be fifteen thousand (15,000) square feet and one hundred twenty (120) feet, respectively; provided, however, that the minimum lot area and width for lots not served with public sewer shall be twenty thousand (20,000) square feet and one hundred twenty (120) feet, respectively; provided, however, that any lot or parcel of land which is platted or otherwise of record at the effective date of this section and which does not satisfy the minimum area and/or width requirement of this subsection, may be used for single family dwelling use only if permitted under the terms of Section 3.3(b) of this Ordinance.

Section 7.6 Minimum Floor Area. Each single family dwelling shall have a minimum of one thousand (1,000) square feet of usable floor area above basement level, of which seven

hundred (700) square feet shall be located on the floor nearest to ground level at the front of the building. Two-family dwellings shall have a minimum of seven hundred fifty (750) square feet of usable floor area per unit. For purposes of these measurements, floor levels separated by five feet or less shall be considered one floor level.

Section 7.7 Height Regulation. No building or structure shall exceed thirty-five (35) feet in height.

CHAPTER VIII
R-3 MEDIUM DENSITY MULTIPLE FAMILY DISTRICT

Section 8.1 Description and Purpose. This zoning district is intended for medium density two family dwellings, multiple family dwellings, state licensed mobile home parks and other permitted or specially approved land uses.

Section 8.2 Permitted Uses. Land, buildings and structures in the R-3 District may be used for the following purposes only, unless otherwise provided in this Ordinance:

- (a) Single family dwellings.
- (b) Two-family dwellings.
- (c) Multiple family dwellings, including apartments and townhouses.
- (d) State licensed residential facilities and child care facilities provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six (6) or less persons; but not including adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

Section 8.3 Special Land Uses. The following uses may be permitted when authorized as special land uses:

- (a) Nursing homes, homes for the aged, those state-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.
- (b) Private and public schools, libraries, museums and similar uses when owned and operated by governmental agency or non-profit organization when authorized by the Planning Commission under Chapter XIII.
- (c) Parks, playgrounds, community centers, governmental administration or service buildings which are owned and operated by governmental agency or a non-commercial organization when authorized by the Planning Commission under Chapter XIII.
- (d) Churches, when authorized by the Planning Commission under Chapter XIII.
- (e) Home occupations, when authorized by the Planning Commission under Chapter XIII. In considering such authorization, the Planning Commission shall consider the standards provided in Section 6.3(d) of this Ordinance.

- (f) State licensed mobile home parks when authorized by the Planning Commission under Chapter XIII, provided, however, that such state licensed mobile home parks shall comply with all of the conditions and requirements set forth in Section 8.4 of this Ordinance.
- (g) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions.

Section 8.4 State Licensed Mobile Home Parks. State licensed mobile home parks may be permitted as a special land use under Section 8.3(f) when all of the following conditions and requirements have been fully complied with and when any such state licensed mobile home park is in compliance with all applicable state laws, the Michigan Mobile Home Commission Rules and other applicable state regulations:

- (a) **Area and Density.** Each mobile home park shall have at least fifteen (15) acres in area.
- (b) **Minimum Lot Area.** Each mobile home lot shall have a minimum lot area of five thousand five hundred (5,500) square feet; provided, however, that the area of a mobile home lot may be reduced to not less than four thousand four hundred (4,400) square feet for each square foot of lot area reduction there is at least an equal amount of land dedicated as open space within the mobile home park.
- (c) **Setbacks and Buffers.** No mobile home or permanent mobile home park building shall be located closer than forty (40) feet to the right-of-way of a public street nor closer than ten (10) feet to another mobile home park.
- (d) **Streets.** For two-way traffic streets, without on-street parking, the width of the street pavement shall be not less than twenty (21) feet. For one-way traffic streets, without on-street parking, the width of the street pavement shall be not less than thirteen (13) feet. The width of the street pavement with on-street parking shall be as provided in the Michigan Mobile Home Commission Rules.
- (e) **Motor Vehicle Parking.** Parking shall be provided in off-street parking bays with at least two parking spaces for each mobile home. Each parking space shall be not less than one hundred sixty (160) square feet in area. Each parking bay shall be conveniently located in relation to the mobile home for which it is provided.
- (f) **Signs.** Any signs shall comply with applicable provisions of Chapter XV of this Ordinance.

- (g) **Utilities.** All public and private utilities shall be installed underground.
- (h) **Site Improvements.** Each mobile home pad shall have a mobile home anchoring system complying with the appropriate rules thereon set forth in the Michigan Administrative Code. Skirting around the mobile home shall be installed in accordance with applicable rules of the Michigan Administrative Code.
- (i) **Mobile Home Sales Prohibited.** The business of selling new and/or use mobile homes as a commercial operation as a part of or in connection with the operation of a mobile home park is prohibited. This section shall not prohibit the sale of a new or used mobile home by a resident of a mobile home park or licensed dealer or broker if the mobile home has a permanent foundation and is fully ready for occupancy.
- (j) **Streets and Parking Areas.** All streets and parking areas shall be of a hard surface in accordance with the Michigan Mobile Home Commission Rules. Streets and parking areas shall otherwise comply with such rules and other applicable state regulations.
- (k) **Ground Cover.** All exposed ground surfaces in the mobile home park shall be sodded, seeded or covered with ornamental stone or wood chips or other attractive ground cover.
- (l) **Outdoor Storage.** Common storage areas for the storage of boats, motorcycles, recreational vehicles and similar equipment may be provided in a mobile home park, but shall be limited to use by only residents of the mobile home park. Such storage area shall be screened from view from adjacent residential properties. Exterior storage cabinets, if erected or moved upon any mobile home lot, shall not be placed forward of the rear half of any mobile home lot.
- (m) **Common Open Space.** Each mobile home park shall include an open space area dedicated to common mobile home park use. Such open space area shall be of an area not less than that required by the Michigan Mobile Home Commission Rules. Such area shall be in addition to the open space required to be provided if the minimum lot size of mobile home lots is reduced in accordance with the provisions of subparagraph (b) of this Section 8.4.
- (n) **[Reserved.]**
- (o) **Sanitary Sewer System.** Each mobile home park shall have a sanitary sewer system connected to and approved public sewer system. If no approved public sanitary sewer system is available, a sewage collection and treatment system meeting all state, county and other applicable requirements shall be provided. The state and county health departments and other agencies having jurisdiction shall approve the plans for such sanitary sewer system before any mobile home is occupied in a mobile home park.

- (p) **Sidewalks.** If sidewalks are provided, they shall be designed, constructed and maintained for safe and convenient movement from all mobile home sites to principal destinations within the mobile home park and connection to any public sidewalks outside the park. Any sidewalk system within a mobile home park shall comply with the Michigan Mobile Home Commission Rules.
- (q) **Outdoor Lighting.** All streets and sidewalks within a mobile home park shall be illuminated in accordance with the Michigan Mobile Home Commission Rules. Access points to public streets shall be lighted. At all street intersections and pedestrian crosswalks within the mobile home park, the minimum illumination shall be not less than .15 footcandle. Roads, parking bays and sidewalks shall be illuminated at not less than .05 footcandle. If central mailbox area or park directories or both are provided, they shall be illuminated at not less than 3.15 horizontal footcandles on any mailbox or any such park directory. Outdoor recreational facilities shall be adequately lighted when in use.
- (r) **Screening and Fencing.** A mobile home park may be completely or partially screened by the installation of fencing or natural growth along the entire property boundary line, except at access points. Individual mobile home lot fencing, if permitted in the mobile home park, shall be not more than three (3) feet high and shall have not less than two (2) access gates which provide free access to all sides of the mobile home in the event of an emergency. All screening and fencing shall otherwise comply with the Michigan Mobile Home Commission Rules.

Section 8.5 Other Uses. The following other uses may be permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 3.9.
- (b) Signs as regulated under Chapter XV.
- (c) Parking and loading as regulated under Chapter XVI.

Section 8.6 Area Regulations. No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements.

- (a) **Front Yard.** There shall be a front yard of not less than thirty (30) feet.
- (b) **Side Yard.** There shall be total side yards as follows:
 - (1) For one-family dwellings and two-family dwellings, the total side yards shall be not less than twenty (20) feet; provided, however, that no side yard shall be less than seven (7) feet.
 - (2) For multiple-family dwellings and all other permitted uses, each side yard shall be not less than twenty (20) feet.

- (c) **Rear Yard.** There shall be a rear yard of not less than twenty-five (25) feet; provided, however, that in the case of lakefront lots, the rear yard shall not be less than seventy-five (75) feet.
- (d) **Lot Area and Width (One-Family and Two-Family).** The minimum lot area and width for a one-family dwelling and a two-family dwelling shall be ten thousand (10,000) square feet and ninety (90) feet, respectively; provided, however, that the minimum lot area and width for lots not served with public sanitary sewer shall be fifteen thousand (15,000) square feet and one hundred (100) feet, respectively.
- (e) **Lot Area and Width (Other than One-Family and Two-Family).** The minimum lot area for multiple family dwellings shall be four thousand five hundred (4,500) square feet per dwelling unit; provided, however, that the minimum lot area for multiple family dwellings not served with public sewer shall be ten thousand (10,000) square feet per dwelling unit. The minimum lot area for all other permitted uses shall be fifteen thousand (15,000) square feet. The minimum lot width shall be one hundred (100) feet.

Section 8.7 Minimum Floor Area. Each single family dwelling shall have a minimum of one thousand (1,000) square feet of usable floor area above basement level, of which seven hundred (700) square feet shall be located on the floor nearest to ground level at the front of the building. Two-family dwellings shall have a minimum of seven hundred fifty (750) square feet of usable floor area above basement level per unit. For purposes of these measurements, floor levels separated by five (5) feet or less shall be considered one floor level. For buildings containing more than two dwelling units, each dwelling unit shall have minimum usable floor areas above basement level as follows: one bedroom unit, six hundred fifty (650) square feet per unit; two bedroom unit, seven hundred fifty (750) square feet per unit; three bedroom unit, nine hundred (900) square feet per unit; and for each additional bedroom, an additional one hundred (100) square feet of usable floor area shall be provided.

Section 8.8 Height Regulation. No building or structure shall exceed thirty-five (35) feet in height.

**CHAPTER VIII
R-4 HIGH DENSITY MULTIPLE FAMILY DISTRICT**

Section 8A.1. Description and Purpose. This zoning district is intended for higher density residential uses, including two-family dwellings, multiple family dwellings, state licensed mobile home parks and other permitted or specially approved land uses. The district is designed to serve as a transition zone between non-residential uses and less intensive residential areas in areas that are on or near major thoroughfares and close to business areas. Non-residential institutional uses such as churches, schools, parks, nursing homes, day care centers, etc. may be permitted on a special use basis. Development in this district must be served by public utilities.

Section 8A.2. Permitted Uses. Land, buildings and structures in the R-4 District may be used for the following purposes only, unless otherwise provided in this Ordinance:

- (a) Two-family dwellings.
- (b) Multiple family dwellings, including apartments and townhouses.
- (c) State licensed residential facilities and child care facilities provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six (6) or less persons; but not including adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

Section 8A.3. Special Land Uses. The following uses may be permitted when authorized as special land uses:

- (a) Nursing homes, homes for the aged, those state-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.
- (b) Private schools, libraries, museums and similar uses when authorized by the Planning Commission under Chapter XIII.
- (c) Parks, playgrounds, community centers, governmental administration or service buildings when authorized by the Planning Commission under Chapter XIII.
- (d) Churches, when authorized by the Planning Commission under Chapter XIII.
- (e) Home occupations, when authorized by the Planning Commission under Chapter XIII. In considering such authorization, the Planning Commission shall consider the standards provided in Section 6.3(d) of this Ordinance.
- (f) State licensed mobile home parks when authorized by the Planning Commission under Chapter XIII, provided, however, that such state licensed mobile home

parks shall comply with all of the conditions and requirements set forth in Section 8A.4 of this Ordinance.

- (g) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions.

Section 8A.4. State Licensed Mobile Home Parks. State licensed mobile home parks may be permitted as a special land use under Section 8A.3(f) when all of the following conditions and requirements have been fully complied with and when any such state licensed mobile home park is in compliance with all applicable state laws, the Michigan Mobile Home Commission Rules and other applicable state regulations:

- (a) **Area and Density.** Each mobile home park shall have at least ten (10) acres in area.
- (b) **Minimum Lot Area.** Each mobile home lot shall have a minimum lot area of five thousand five hundred (5,500) square feet; provided, however, that the area of a mobile home lot may be reduced to not less than four thousand four hundred (4,400) square feet for each square foot of lot area reduction there is at least an equal amount of land dedicated as open space within the mobile home park.
- (c) **Setbacks and Buffers.** No mobile home or permanent mobile home park building shall be located closer than forty (40) feet to the right-of-way of a public street nor closer than ten (10) feet to another mobile home park.
- (d) **Streets.** For two-way traffic streets, without on-street parking, the width of the street pavement shall be not less than twenty (21) feet. For one-way traffic streets, without on-street parking, the width of the street pavement shall be not less than thirteen (13) feet. The width of the street pavement with on-street parking shall be as provided in the Michigan Mobile Home Commission Rules.
- (e) **Motor Vehicle Parking.** Parking shall be provided in off-street parking bays with at least two parking spaces for each mobile home. Each parking space shall be not less than one hundred sixty (160) square feet in area. Each parking bay shall be conveniently located in relation to the mobile home for which it is provided.
- (f) **Signs.** Any signs shall comply with applicable provisions of Chapter XV of this Ordinance.
- (g) **Utilities.** All public and private utilities shall be installed underground.

- (h) **Site Improvements.** Each mobile home pad shall have a mobile home anchoring system complying with the appropriate rules thereon set forth in the Michigan Administrative Code. Skirting around the mobile home shall be installed in accordance with applicable rules of the Michigan Administrative Code.
- (i) **Mobile Home Sales Prohibited.** The business of selling new and/or use mobile homes as a commercial operation as a part of or in connection with the operation of a mobile home park is prohibited. This section shall not prohibit the sale of a new or used mobile home by a resident of a mobile home park or licensed dealer or broker if the mobile home has a permanent foundation and is fully ready for occupancy.
- (j) **Streets and Parking Areas.** All streets and parking areas shall be of a hard surface in accordance with the Michigan Mobile Home Commission Rules. Streets and parking areas shall otherwise comply with such rules and other applicable state regulations.
- (k) **Ground Cover.** All exposed ground surfaces in the mobile home park shall be sodded, seeded or covered with ornamental stone or wood chips or other attractive ground cover.
- (l) **Outdoor Storage.** Common storage areas for the storage of boats, motorcycles, recreational vehicles and similar equipment may be provided in a mobile home park, but shall be limited to use by only residents of the mobile home park. Such storage area shall be screened from view from adjacent residential properties. Exterior storage cabinets, if erected or moved upon any mobile home lot, shall not be placed forward of the rear half of any mobile home lot.
- (m) **Common Open Space.** Each mobile home park shall include an open space area dedicated to common mobile home park use. Such open space area shall be of an area not less than that required by the Michigan Mobile Home Commission Rules. Such area shall be in addition to the open space required to be provided if the minimum lot size of mobile home lots is reduced in accordance with the provisions of subparagraph (b) of this Section 8A.4.
- (n) **Sanitary Sewer System.** Each mobile home park shall have a sanitary sewer system connected to and approved public sewer system. If no approved public sanitary sewer system is available, a sewage collection and treatment system meeting all state, county and other applicable requirements shall be provided. The state and county health departments and other agencies having jurisdiction shall approve the plans for such sanitary sewer system before any mobile home is occupied in a mobile home park.
- (o) **Sidewalks.** If sidewalks are provided, they shall be designed, constructed and maintained for safe and convenient movement from all mobile home sites to principal destinations within the mobile home park and connection to any public

sidewalks outside the park. Any sidewalk system within a mobile home park shall comply with the Michigan Mobile Home Commission Rules.

- (p) **Outdoor Lighting.** All streets and sidewalks within a mobile home park shall be illuminated in accordance with the Michigan Mobile Home Commission Rules. Access points to public streets shall be lighted. At all street intersections and pedestrian crosswalks within the mobile home park, the minimum illumination shall be not less than .15 footcandle. Roads, parking bays and sidewalks shall be illuminated at not less than .05 footcandle. If central mailbox area or park directories or both are provided, they shall be illuminated at not less than 3.15 horizontal footcandles on any mailbox or any such park directory. Outdoor recreational facilities shall be adequately lighted when in use.
- (q) **Screening and Fencing.** A mobile home park may be completely or partially screened by the installation of fencing or natural growth along the entire property boundary line, except at access points. Individual mobile home lot fencing, if permitted in the mobile home park, shall be not more than three (3) feet high and shall have not less than two (2) access gates which provide free access to all sides of the mobile home in the event of an emergency. All screening and fencing shall otherwise comply with the Michigan Mobile Home Commission Rules.

Section 8A.5. Other Uses. The following other uses may be permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 3.9.
- (b) Signs as regulated under Chapter XV.
- (c) Parking and loading as regulated under Chapter XVI.

Section 8A.6. Area Regulations. No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements:

- (a) **Front Yard.** There shall be a front yard of not less than thirty (30) feet.
- (b) **Side Yard.** There shall be total side yards as follows:
 - (1) For two-family dwellings, the total side yards shall be not less than twenty (20) feet; provided, however, that no side yard shall be less than seven (7) feet.
 - (2) For multiple-family dwellings and all other permitted uses, each side yard shall be at least equal to the height of the building, but in no case less than twenty (20) feet.

- (c) **Rear Yard.** There shall be a rear yard of not less than twenty-five (25) feet; provided, however, that in the case of lakefront lots, the rear yard shall not be less than seventy-five (75) feet.
- (d) **Lot Area and Width (Two-Family).** The minimum lot area and width for a two-family dwelling shall be ten thousand (10,000) square feet and ninety (90) feet, respectively; provided, however, that the minimum lot area and width for lots not served with public sanitary sewer shall be fifteen thousand (15,000) square feet and one hundred (100) feet, respectively.
- (e) **Lot Area and Width.** The minimum lot area for multiple family dwellings and all other permitted uses shall be two (2) acres. The minimum lot width shall be one hundred (100) feet.
- (f) **Density.** For multi-family dwellings, each unit shall have a minimum lot area of three thousand five hundred (3,500) square feet.

Section 8A.7. Minimum Floor Area. Two-family dwellings shall have a minimum of seven hundred fifty (750) square feet of usable floor area above basement level per unit. For purposes of these measurements, floor levels separated by five (5) feet or less shall be considered one floor level.

For buildings containing more than two dwelling units, each dwelling unit shall have minimum usable floor areas above basement level as follows: one bedroom unit, six hundred fifty (650) square feet per unit; two bedroom unit, seven hundred fifty (750) square feet per unit; three bedroom unit, nine hundred (900) square feet per unit; and for each additional bedroom, an additional one hundred (100) square feet of usable floor area shall be provided.

Section 8A.8. Height Regulation. Buildings and structures shall not exceed three (3) stories and shall not exceed forty (42) feet in height.

Section 8A.9. Screening and Buffering. If an “R-4” zone abuts an existing “R-A,” “R-1,” “R-2” or “R-3” zone, screening as outlined in Section 3.14(b) may be required by the Planning Commission.

Section 8A.10. Open Space Requirements. A minimum required area for open space shall be provided, constituting twenty percent (20%) of the gross land area of the project, exclusive of existing public right-of-way; provided, however, the Planning Commission may reduce this amount if significant amenities, such as playgrounds, picnic areas or usable parks, are provided within a smaller open space area. Open space shall comply with the open space standards provided in Zoning Ordinance Section 12.3(d), except for buffer zones.

Section 8A.11. Lot Coverage. Buildings and structures shall not cover more than forty (40%) percent of the total site area.

Section 8A.12. Access. Two separate means of access routes will be required for developments in the R-4 District. The Planning Commission may determine that the second means of access may be constructed to only provide access to emergency vehicles if the secondary access is not required for general traffic safety, after considering the following factors:

- (a) Number and size of buildings and/or dwelling units which make up the project.
- (b) Type of interior roadway serving the project.
- (c) Interior circulation system.
- (d) Topography and other natural features of the site.
- (e) Amount of frontage on a public street.
- (f) Adjacent land uses.
- (g) Feasibility of achieving a secondary means of access.
- (h) Comments of the Fire Chief.
- (i) Capacity, availability and location of underground public utilities.

CHAPTER IX
C-1 NEIGHBORHOOD BUSINESS DISTRICT

Section 9.1 Description and Purpose. The C-1 General Business District is intended for general shopping areas, including retail businesses and service establishments which supply goods and products or perform services which meet the needs of the community, the surrounding area, and the travelling public.

Section 9.2 Permitted Uses. Land, buildings and structures in the C-1 District may be used for the following purposes only, unless otherwise provided in this Ordinance:

- (a) Antique shop.
- (b) Automobile service stations; motor vehicle sales.
- (c) Automobile repair shop or garage, but not including auto body shop.
- (d) Bakery.
- (e) Banks, loan and/or finance offices.
- (f) Barber shop or beauty shop.
- (g) Catering service, delicatessen and confectionery store.
- (h) Clinic - dental and medical including laboratory.
- (i) Clothing and dry goods store.
- (j) Computer equipment store.
- (k) Consignment or resale shop.
- (l) Dance or gymnastics studio.
- (m) Drug store.
- (n) Dry cleaning and laundry; laundromat.
- (o) Florist and gift shop.
- (p) Funeral home.
- (q) Grocery store and meat market.
- (r) Hardware store.
- (s) Household appliance store; radio and television store.

- (t) Jewelry store.
- (u) Lodge hall, private clubs, veterans clubs.
- (v) Liquor store.
- (w) Nursery school and day nurseries.
- (x) Offices.
- (y) Pet shop.
- (z) Photographer.
- (aa) Parcel delivery station.
- (bb) Printing shop.
- (cc) Restaurants.
- (dd) Tavern, bar or cocktail lounge (but not including live music performance or dancing).
- (ee) Shoe repair shop.
- (ff) Tailor shop.
- (gg) Theater, but not including drive-in theater.
- (hh) Travel agency.
- (ii) Variety store.
- (jj) Video store.
- (kk) Massage therapy service, where such service is not included within the definition of Massage Parlor in Section 13.3(f)(4)(vi), because the massage therapy service is offered at a barber shop, beauty salon, athletic facility or separate service establishment where massages are administered only to the scalp, the face, the neck, the feet, the legs below the buttocks and below the genital and pubic area, the arms, hands and shoulders, or the back above the waist.
- (ll) Other similar retail, business or service establishments which supply goods or perform services primarily for the community, the surrounding area and the travelling public.

Section 9.3 Special Land Uses. The following uses may be permitted when authorized as special land uses:

- (a) Live music performance and/or dancing in any restaurant, tavern, bar or cocktail lounge when authorized by the Planning Commission under Chapter XIII. In considering such special land use, the Planning Commission shall consider the following standards:
 - (1) The size, nature and character of the establishment in which the special land use would be located.
 - (2) The proximity of the establishment and the proposed use to adjoining lands.
 - (3) Motor vehicle parking area.
 - (4) Any traffic congestion or hazard.
 - (5) The probable extent to which noise resulting from the special land use may adversely affect neighboring lands.
 - (6) Other effects, if any, of the proposed use on the surrounding neighborhood and the community at large.

No special land use shall be required for live music performance and/or dancing by or for any lodge or other fraternal organization at occasional social events of the members or guests of such lodge or fraternal organization or at occasional social events held by or for other persons or organizations on the premises of such lodge or other fraternal organization.

- (b) Off-site parking lots not associated with another principal use on the lot when authorized by the Planning Commission under Chapter XIII.
- (c) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions.
- (d) Nursing homes, homes for the aged, those state-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.

- (e) Grain elevators and facilities for the storage and shipping of grain, silage, feed, fertilizer, lumber, agronomy products and similar commodities.
- (f) An Accessory Residential Use, subject to the terms and conditions of Section 13.3(h).

Section 9.4 Other Uses. The following other uses may be permitted as provided in this Ordinance.

- (a) Accessory buildings and other accessory uses as regulated under Section 3.9.
- (b) Signs as regulated under Chapter XV.
- (c) Parking and loading as regulated under Chapter XVI.

Section 9.5 Required Conditions.

- (a) All private sewage disposal systems not connected to a public sewer system must be approved by the Kent County Health Department.
- (b) Any side yard or rear yard adjoining any lot or parcel of land in the R-1, R-2, R-3, or R-4 District shall be screened by a compact hedge of deciduous or evergreen trees that are at least five feet in height after one growing season, or by a solid wall or board fence at least six (6) feet in height.
- (c) Except for motor vehicle parking, and except for automobile service stations, bank drive-up window facilities and restaurant drive-up or drive-through window facilities, all business or services shall be conducted entirely within a completely enclosed building.
- (d) If goods are produced on the premises for sale at retail, more than fifty percent (50%) of the quantity of such goods sold at retail shall be sold on the premises where produced, unless otherwise approved by the Planning Commission as a special land use.

Section 9.6 Area Regulations. No building or structure shall be erected, nor shall any building or structure be enlarged unless the following yards and lot area are provided and maintained in connection with such building, structure or enlargement.

(a) **Front Yard.**

- (1) Where all the frontage on the same side of a street between two intersecting streets is located in a C-1 Zoning District and where a setback has been established by fifty percent (50%) of said frontage, then this established setback shall determine the minimum front yard setback.

- (2) Where the frontage of a lot in a C-1 Zoning District abuts on Cherry Valley Avenue (State Highway M-37), the front yard shall not be less than eighty-five (85) feet. This provision shall not apply, however, in those cases where the existing right-of-way is one hundred twenty (120) feet wide or greater across the full width of the lot.
- (3) In all other cases, there shall be a front yard of not less than fifty (50) feet.

(b) **Side Yard.**

- (1) Where the side of a lot in a C-1 Zoning District abuts upon the side of a lot in any R Zoning District, each side yard shall be not less than twenty-five (25) feet.
- (2) There shall be a side yard of not less than forty (40) feet on the street side of a corner lot.
- (3) No side yard shall be required when the land in question directly abuts other commercial uses or land included in a C-1 Zoning District.

(c) **Rear Yard.**

- (1) Where the rear of a lot in a C-1 Zoning District abuts upon a lot in any R Zoning District, there shall be a rear yard of not less than twenty-five (25) feet.
- (2) In all other cases, there shall be a rear yard of not less than ten (10) feet.
- (3) No accessory building shall be located closer than five (5) feet from the rear lot line.

- (d) **Lot Area and Width.** The minimum lot area and lot width shall be ten thousand (10,000) square feet and one hundred (100) feet, respectively.

Section 9.7 Height Regulation. No building or structure shall exceed thirty-five (35) feet in height.

Section 9.8 Minimum Floor Area. No minimum floor area is required.

CHAPTER X
C-2 HIGHWAY BUSINESS DISTRICT

Section 10.1 Description and Purpose. The C-2 Highway Business District is intended for general shopping areas, including retail businesses or service establishments which supply goods and products or perform services which meet the needs of the community, the surrounding area and the traveling public. Such uses may be those in the nature of highway commercial uses and regional commercial uses, as well as those retail business and general business activities which are best located along major state highways or other well-travelled roads.

Section 10.2 Permitted Uses. Land, buildings and structures in the C-2 District may be used for the following purposes only, unless otherwise provided in this Ordinance:

- (a) Any use permitted and as regulated in the C-1 District.
- (b) Auction house.
- (c) Auto wash.
- (d) Bed and breakfast establishment.
- (e) Business or trade school.
- (f) Club building, lodge hall and society hall.
- (g) Farm machinery and farm implement sales and repair.
- (h) Feed store.
- (i) General repair.
- (j) Home improvement center.
- (k) Health and fitness club.
- (l) Indoor sports business, including court games.
- (m) Mobile home sales, travel trailer and camper sales.
- (n) Motor vehicle body shop.
- (o) Plumbing and heating store.
- (p) Public garage.
- (q) Public transportation facilities.
- (r) Recreational equipment and recreational vehicles.

- (s) Rental service, including motor vehicles and household goods.
- (t) Storage of goods and commodities, including feed and grain, food locker, personal rental space and motor vehicles.
- (u) Veterinary and animal treatment.
- (v) Other similar retail, business or service establishments which supply goods or perform services primarily for residents of the general area and the travelling public.
- (w) Wind Energy Conversion Systems which are less than 50 feet in height and which comply with the requirements of Section 3.41.

Section 10.3 Special Land Uses. The following uses may be permitted when authorized as special land uses:

- (a) Amusement parks when authorized by the Planning Commission under Chapter XIII.
- (b) Contractor yards when authorized by the Planning Commission under Chapter XIII.
- (c) Radio and television transmission facilities when authorized by the Planning Commission under Chapter XIII.
- (d) Wholesale warehousing when authorized by the Planning Commission under Chapter XIII.
- (e) Off-site parking lots not associated with another principal use on the lot when authorized by the Planning Commission under Chapter XIII.
- (f) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions.
- (g) Nursing homes, homes for the aged, those state-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.

Section 10.4 Other Uses. The following other uses may be permitted as provided in this Ordinance:

- (a) Accessory uses as regulated under Section 3.9.
- (b) Signs as regulated under Chapter XV.
- (c) Parking and loading as regulated under Chapter XVI.

Section 10.5 Required Conditions.

- (a) All private sewage disposal systems not connected to a public sewer system must be approved by the Kent County Health Department.
- (b) Any side yard or rear yard adjoining any lot or parcel of land in the R-1, R-2, R-3, or R-4 District shall be screened by a compact hedge of deciduous or evergreen trees that are at least five (5) feet in height after one growing season, or by a solid wall or board fence at least six (6) feet in height.

Section 10.6 Area Regulations. No building or structure shall be erected nor shall any building or structure be enlarged unless the following yards and lot area are provided and maintained in connection with such building, structure or enlargement.

(a) **Front Yard.**

- (1) Where all the frontage on the same side of a street between two (2) intersecting streets is located in a C-2 Zoning District and where a setback has been established by fifty percent (50%) of said frontage, then this established setback shall determine the minimum front yard setback.
- (2) Where the frontage of a lot in a C-2 Zoning District abuts on Cherry Valley Avenue (State Highway M-37), the front yard shall not be less than eighty-five (85) feet. This provision shall not apply, however, in those cases where the existing right-of-way is one hundred twenty (120) feet wide or greater across the full width of the lot.
- (3) In all other cases, there shall be a front yard of not less than fifty (50) feet.

(b) **Side Yard.** Same as the C-1 District.

(c) **Rear Yard.** Same as the C-1 District.

(d) **Lot Area and Width.** The minimum lot area and lot width shall be ten thousand (10,000) square feet and one hundred (100) feet, respectively.

Section 10.7 Height Regulation. No building or structure shall exceed thirty-five (35) feet in height.

Section 10.8 Minimum Floor Area. No minimum floor area is required.

CHAPTER XI
I-1 LIGHT INDUSTRIAL DISTRICT

Section 11.1 Description and Purpose. This zoning district permits the compounding, assembling or treatment of certain articles or materials, but does not permit heavy manufacturing or the processing of raw materials. Industries in this district may not use punch presses, drop hammers, reciprocating hammers, smelting processes, or any other similar uses involving machinery or equipment which cause undue noise, dust, fumes, light or vibrations.

Section 11.2 Permitted Uses. Land, buildings and structures in the I-1 District may be used for the following purposes only, unless otherwise provided in this Ordinance:

- (a) The compounding, processing, packing or treatment of candy, cosmetics, drugs, perfumes, toiletries, and food products, except the rendering or refining of fats and oils.
- (b) The compounding, assembly, or treatment of articles from the following previously prepared materials: aluminum, canvas, cloth, cork, felt, fibers, fur, glass, leather, paper, plastics, precious or semi-precious metals or stones, rubber, tin, wood and yarn.
- (c) The manufacture, only by electricity or gas, of pottery and figurines or other ceramic products, using only previously pulverized clay.
- (d) Auto repair shops.
- (e) Bottling plants and dairies.
- (f) Contractor yards.
- (g) Crating and packing service.
- (h) Electrical, plumbing and heating supplies - wholesale and storage.
- (i) Factory and mill supplies.
- (j) Lumber mill.
- (k) Machine shop.
- (l) Ornamental iron and fence service.
- (m) Printing and publishing plant, including processes related thereto.
- (n) Public utility service or storage yard.
- (o) Sign painting and servicing shops.

- (p) Warehouses and storage structures.
- (q) Wholesale sales.
- (r) Other similar light industrial uses and establishments that involve the compounding, assembly or treatment of articles or materials, but which do not involve heavy manufacturing or the processing of raw materials.

Section 11.3 Special Land Uses. The following uses may be permitted when authorized as special land uses:

- (a) Petroleum or natural gas storage located at least five hundred (500) feet from any residentially-zoned property, when authorized by the Planning Commission under Chapter XIII.
- (b) Dismantling or disassembling of used motor vehicles or parts thereof when authorized by the Planning Commission under Chapter XIII.
- (c) Radio, microwave or television antennas or towers having a height greater than or characteristics different from those specified in Section 3.38 when authorized by the Planning Commission under Chapter XIII.
- (d) Other light industrial uses not included in Section 11.2.
- (e) Off-site parking lots not associated with another principal use on the lot when authorized by the Planning Commission under Chapter XIII.

Section 11.4 Other Uses. The following other uses may be permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 3.9.
- (b) Signs as regulated under Chapter XV.
- (c) Parking and loading as regulated under Chapter XVI.

Section 11.5 Required Conditions.

- (a) All private sewage disposal systems not connected to a public sewer system must be approved by the Kent County Health Department.
- (b) Any side yard or rear yard adjoining any lot or parcel of land in the R-1, R-2, R-3, or R-4 District shall be screened by a compact hedge of deciduous or evergreen trees that are at least five feet in height after one growing season, or by a solid wall or board fence at least six feet in height.

- (c) Ingress to and egress from any lot or parcel of land shall be designed and used so as to maximize pedestrian safety, ease of traffic flow and control and ready access by emergency vehicles and personnel.
- (d) Off-street parking and loading areas shall be so designed and used as to avoid significant adverse impact on surrounding lands located outside the I-1 District.
- (e) Refuse and service areas shall be designed and used so as to maximize motor vehicle and pedestrian safety and convenience, promote ease of traffic flow and control and to minimize the effects, if any, of smoke, noise, dust, vibration or odor on adjacent or nearby lands.

Section 11.6 Area Regulations. No building or structure shall be erected nor shall any building or structure be enlarged unless the following yards, lot area and building coverage requirements are provided in connection with such building, structure or enlargement.

- (a) **Front Yard.** There shall be a front yard of not less than fifty (50) feet.
- (b) **Side Yard.** There shall be a side yard of not less than twenty (20) feet, except that where the lot or parcel of land is adjacent to lands in a residential district, the side yard shall be not less than fifty (50) feet.
- (c) **Rear Yard.** There shall be a rear yard of not less than fifty (50) feet.
- (d) **Lot Area.** The minimum lot area shall be fifteen thousand (15,000) square feet.

Section 11.7 Height Regulation. No building or structure shall exceed thirty-five (35) feet in height.

Section 11.8 Minimum Floor Area. No minimum floor area is required.

CHAPTER XII
PUD PLANNED UNIT DEVELOPMENT DISTRICT

Section 12.1 Definition and Purpose. This chapter provides enabling authority and standards for the submission, review, and approval of applications for Planned Unit Developments. It is the intent of this chapter to authorize the consideration and use of Planned Unit Development regulations for the following purposes:

- (a) To encourage the use of land in accordance with its character and adaptability.
- (b) To promote the conservation of natural features and resources.
- (c) To encourage innovation in land use planning and development.
- (d) To promote the enhancement of housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the Village.
- (e) To promote and ensure greater compatibility of design and use between neighboring properties.
- (f) To provide for the regulation of legal land uses not otherwise authorized within this Ordinance.

The provisions of this chapter are not intended as a device for ignoring the Zoning Ordinance or the planning upon which it has been based. To that end, provisions of this chapter are intended to result in land use development substantially consistent with the prior zoning, with modifications and departures from generally applicable requirements and in accordance with standards provided in this chapter to ensure appropriate, fair, and consistent decision-making. A Planned Unit Development must comply with this chapter.

Section 12.2 PUD Eligibility. A Planned Unit Development may be considered in any location within the Village of Caledonia. Any land use authorized in this Ordinance may be requested to be included in a Planned Unit Development, as a principal or accessory use, as well as any other legal land use not otherwise authorized in this Ordinance. Authorization of such use shall be at the sole discretion of the Village Council, and will be subject to adequate public health, safety, and welfare protection mechanisms being designed into the development. The following are minimum requirements for all proposed PUDs:

- (a) **Minimum Area.** In order to be considered as a PUD the proposed area of land shall be no less than five (5) acres.
- (b) **Ownership.** The tract of land for a proposed PUD project must be either in one (1) ownership or the subject of an application filed jointly by the owners of all properties included, (the holder of a written option to purchase land or the holder of an executory land contract shall, for the purpose of such application, be deemed the owner of such land).

- (c) **Location.** Any land in the Village may be designated as a PUD in accordance with the procedures and requirements of this chapter. However, a PUD approval in the AG District shall not contain any use other than those uses permitted in the AG District.
- (d) **Required Open Spaces.** The minimum required area for open space within a PUD shall be twenty percent (20%) of the gross land area of the PUD, exclusive of any existing public right-of-way. Open space shall comply with the requirements of Section 12.3(d).
- (e) **Public Services.** The proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities and utilities, including street capacities, water and sewer capacities, fire and police services and other public services.
- (f) **Compatibility of Project.** The proposed PUD shall be consistent with the provisions of the Caledonia Village General Development Plan and with the uses and lands in the surrounding area. The development shall be consistent with the spirit and intent of the regulations contained in this Zoning Ordinance and shall not impede the continued use or development of surrounding properties for uses that are permitted in this Ordinance.

Section 12.3 Project Design Standards.

- (a) **Residential Density.** Density in a residential PUD shall be determined as follows:
 - (1) Overall density shall be the same as if each lot were to satisfy the minimum lot size requirements of the underlying district.
 - (2) Areas within any street right-of-way shall not be included in the overall density calculation.
 - (3) Unbuildable land, which shall include slopes of 20% or greater, regulated or unregulated wetlands, public utility easements, floodplains and other similar features which limit or prevent construction of buildings or roads, shall be identified on the site plan and shall not be included in the overall density calculation.
- (b) **Density Bonus.** A density bonus of up to ten percent (10%) over what is permitted by Section 12.3(a) may be granted at the discretion of the Village Council if the development provides additional amenities or preserves additional open space which would result in significant recognizable benefit to the Village and residents of the PUD. Items that could be added to a PUD so as to make it eligible for consideration for a bonus density shall include, but are not limited to, the following items:

- (1) Provision of recreational facilities, such as playground areas with play equipment, ball fields, golf course, bike path, walking path, man-made lake, community building or similar recreational facilities.
 - (2) Additional landscaping and screening to preserve or enhance the rural view along adjacent roadways.
 - (3) Enhancement of existing wetlands, subject to applicable regulations.
 - (4) Provision of unique open space or mature stands of trees which would be of recognizable benefit to Village residents.
 - (5) Provision of public or private community water and/or sanitary sewer systems.
- (c) **Mixed Uses.** Residential and non-residential uses may be permitted within the same PUD district upon demonstration to the Village Council that such uses meet the intent of this chapter. Where the existing underlying zoning district is residential, non-residential uses may be permitted as part of a PUD that also contains a residential component, providing the applicant demonstrates that the residential uses will be predominant. It shall also be demonstrated that the non-residential uses will not negatively impact the residential uses and that the non-residential uses will be separated and buffered from residential uses in a manner consistent with good land planning principles. Uses classified as industrial under the provisions of Chapter XI may not be considered in a mixed use PUD involving residential land uses. The permitted density for residential uses in a mixed use development shall be determined by the Village Council upon recommendation of the Planning Commission, based on the type of dwelling unit(s) proposed and the standards contained in Sections 12.3(a) and 12.3(b) herein.
- (d) **Open Space Requirements.** PUDs containing a residential component shall provide and maintain usable open space consisting of at least twenty percent (20%) of the land area proposed for development under the provisions of this chapter. The open space shall remain in a perpetually undeveloped state by means of an irrevocable conveyance, such as deed restriction, conservation easement, restrictive covenant or other legal instrument that runs with the land, as approved by the Village attorney. Such conveyance shall:
- (1) Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space.
 - (2) Provide maintenance standards and a maintenance schedule.
 - (3) Provide for assessment of the private property owners by the Village of Caledonia for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.

The following areas shall not constitute open space:

- (1) The area within street rights-of-way.
 - (2) Any easement for overhead utility lines, unless adjacent to open space.
 - (3) The area within a platted lot, the area within a site condominium unit or the area within an unplatted parcel where such parcel is occupied by a structure.
 - (4) Areas within twenty (20) feet of a building shall not be considered as open space.
 - (5) Areas that do not consist of at least four thousand (4,000) square feet of contiguous area or that have any dimension smaller than fifteen (15) feet. Open space areas shall be separate and distinct from area included within the boundaries of a buildable lot or parcel as designated on the PUD plan.
 - (6) Off-street parking and loading areas.
 - (7) Detention and retention ponds.
 - (8) Community drainfields.
 - (9) Fifty percent (50%) of the area of wetlands, creeks, streams, ponds, lakes or other bodies of water.
 - (10) Fifty percent (50%) of the area of floodplains and steep slopes (20% or greater).
 - (11) Buffer zones required by this chapter.
- (e) **Wind Energy Conversion Systems.** Wind Energy Conversion Systems which are less than 50 feet in height and which comply with the requirements of Section 3.41 may be included in a PUD, but only if the final development plan approving the PUD specifically authorizes such a Wind Energy Conversion System after a finding that such a use will be compatible with uses in the PUD and adjacent lands.

Section 12.4 Applicable Regulations.

- (a) Unless specifically waived by the Village Council upon the recommendation of the Planning Commission through the provisions of 12.4(b) below, all regulations of the prior zoning district relative to lot size, lot width, yard area, structure height, setback, signs, parking and loading, landscaping, general provisions and other applicable regulations shall apply. In projects within an existing residential district which are proposed to contain mixed uses, the most restrictive district

regulations within this Ordinance under which each non-residential use would otherwise be permitted, shall apply as the base regulation.

- (b) Consistent with the Planned Unit Development concept, and to encourage flexibility and creativity in development, departures from the regulations outlined in the immediately preceding Section 12.4(a), may be granted at the discretion of the Village Council as part of the approval of a Planned Unit Development. Such departures may be authorized if there are features or planning mechanisms designed into the project which would achieve the objectives of each of the regulations from which a departure is being requested and in the sole discretion of the Village Council, a net benefit to the residents of the Village and to the residents and owners of the PUD would be derived, when compared to the conventional development of the property.
- (c) Notwithstanding Section 12.4(a), each dwelling unit in a Planned Unit Development shall have a minimum of one thousand (1,000) square feet of usable floor area above basement level, of which at least seven hundred (700) square feet shall be on the floor nearest to ground level at the front of the building, unless a different requirement is specifically provided for a Planned Unit Development through the provisions of Section 12.4(b) above. For purposes of this measurement, floor levels separated by five (5) feet or less shall be considered one floor level. This Section 12.4(c) shall apply to all Planned Unit Developments existing on the date of the amending ordinance which added this subsection, unless the approving ordinance for a Planned Unit Development otherwise specifically provides a different minimum usable floor area for dwellings.

Section 12.5 PUD Design Considerations. A proposed Planned Unit Development shall take into account the following specific design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located.

- (a) Perimeter setbacks.
- (b) Street drainage and utility design with respect to location, availability, ownership, and compatibility.
- (c) Underground installation of utilities.
- (d) Insulation of pedestrian ways from vehicular streets and ways.
- (e) Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.
- (f) Noise reduction and visual screening mechanisms for adjoining residential uses.

- (g) Ingress and egress to the property with respect to automotive and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.
- (h) Off-street parking, loading, refuse, and other service areas with respect to ingress and egress and the potential effects of noise, glare, vibration, and odor emanating from such facilities on adjoining properties and uses.
- (i) Screening and buffering with respect to dimensions and character.
- (j) Yard areas and other open space.
- (k) Density and intensity of development expressed in terms of percent of gross and net land area coverage and/or gross and net housing units per acre and the height of buildings and other structures.
- (l) The preservation of natural resources and natural features.
- (m) **Commercial Mixed Use PUDs.** Commercial mixed use PUDs shall satisfy the following requirements:
 - (1) The PUD shall be designed and developed with a unified architectural treatment. Creative architectural features shall be encouraged, including pitched or varied roof lines, creatively designed facades, shingled roofs and exterior finishes emphasizing the use of brick, wood and other natural materials.
 - (2) The commercial portion of a mixed use PUD shall complement the overall PUD plan and the commercial buildings therein shall have an architecture and appearance, including exterior building materials that are reasonably compatible with the residential portion of the PUD.
 - (3) In mixed use PUDs, commercial uses shall be physically separated from adjacent, less-intensive uses, by means of berms, roads, greenbelts or appropriate distances.
 - (4) Loading decks, refuse accumulation areas, truck maneuvering areas and other utility or service areas shall be appropriately screened from view by landscaping or other effective means.

Section 12.6 Effects. The granting of a Planned Unit Development rezoning application shall have the effect of an amendment of the Zoning Ordinance and the Zoning Map constituting a part of this Ordinance. An approval granted under this chapter, including all aspects of the final plan and conditions imposed shall constitute an inseparable part of the Zoning Ordinance.

Section 12.7 Application and Review Procedures.

- (a) **Preapplication Conference.** Prior to the submission of an application for Planned Unit Development, the applicant shall meet with the Zoning Administrator, and such consultants as the Zoning Administrator deems appropriate. The applicant shall present at such conference, or conferences, a sketch plan of the Planned Unit Development, and the following information:
- (1) A legal description of the property in question.
 - (2) The total number of acres to be included in the project.
 - (3) A statement of the approximate number of residential units and/or the approximate number, type, and square footage of non-residential units.
 - (4) The approximate number of acres to be occupied and/or devoted to or by each type of use.
 - (5) Departures from the regulations of the ordinance which may be requested.
 - (6) The number of acres to be preserved as open space or recreation space.
 - (7) All known natural resources and natural features.
- (b) **Preliminary Plan - Submission and Content.** Applicants for PUD authorization shall first prepare and submit to the Zoning Administrator twelve (12) copies of a preliminary plan for the PUD, nine (9) copies shall be for the Planning Commission, one (1) copy for the Village Council, one (1) copy for the Village Planning Consultant and one (1) copy for return to the applicant. This plan shall set forth, in general terms, the proposed uses to be developed in the PUD and the following specific information:
- (1) Date, north arrow, and scale which shall not be more than 1" = 200'.
 - (2) Location sketch of site in relation to surrounding area.
 - (3) Legal description of property.
 - (4) Size of parcel.
 - (5) All lot or property lines with dimensions.
 - (6) Location of all buildings within one hundred (100) feet of the property lines.
 - (7) Location of all existing and proposed structures on the site.

- (8) Location and dimensions of all existing and proposed streets, driveways, parking areas, including total number of spaces and typical dimensions.
- (9) Size and location of all areas devoted to open space.
- (10) Existing vegetation and proposed landscaped areas and buffer strips.
- (11) All areas within the one hundred (100) year floodplain, wetland areas or bodies of water.
- (12) Existing topographical contours at a minimum of five (5) foot intervals.
- (13) A narrative describing:
 - (i) The nature of the project.
 - (ii) The proposed density, number, and types of dwelling units if a residential PUD.
 - (iii) A statement describing how the proposed project meets the objectives of the PUD District.
 - (iv) A statement from a registered professional engineer describing how the proposed project will be served by public water, sanitary sewer, and storm drainage.
 - (v) Proof of ownership or legal interest in property.
- (c) **Preliminary Development Plan - Planning Commission Review.** The Planning Commission shall review the preliminary development plan and shall make reasonable inquiries of the applicant. This review shall take place within thirty (30) days of receipt by the Zoning Administrator of all materials required in the application unless an extension is mutually agreed upon between the Planning Commission and the applicant.
- (d) **Advisory Public Hearing.** In the course of its consideration of a preliminary plan, the Planning Commission may call an advisory public hearing and give such notice thereof as outlined in Section 12.8.
- (e) **Transmittal of Planning Commission's Recommendations.** The Planning Commission shall transmit its recommendations pertaining to the preliminary plan along with any recommended changes or modifications thereof to the applicant. A copy of the Planning Commission's recommendations shall be transmitted to the Village Council.
- (f) **Application and Final Plan Submission.** After receipt and review of the Planning Commission's recommendations regarding the preliminary plan, the

applicant may submit to the Zoning Administrator a Final PUD application and twelve (12) copies of a Final Development Plan to the Zoning Administrator. The Zoning Administrator shall promptly transmit one (1) copy to the Village Council, nine (9) copies to the Planning Commission, one (1) copy to the Village Planning Consultant, and retain one (1) copy. Any additional review fees required in accordance to the Village fee schedule and any unpaid fees associated with the preliminary plan shall be paid to the Village Clerk at the time of application.

(g) **Contents of Final Plan.** The final development plan shall contain the same information required for the preliminary development plan and shall contain the following additional information as well as information specifically requested by the Planning Commission in its review of the preliminary development plan:

- (1) Location and size of all water, sanitary sewer, and storm sewer lines serving the development.
- (2) Proposed contour lines at not greater than two (2) foot intervals.
- (3) Proposed landscaping including type, number, and size of trees and shrubs.
- (4) Location of signs and exterior lighting.
- (5) Location of sidewalk, foot paths, or other pedestrian walkways.
- (6) Distance of all buildings from lot lines, right-of-ways, and other principal buildings.
- (7) Exterior architectural drawings noting building materials, height and area of buildings and accessory structures.
- (8) Proposed phases of project.
- (9) The Planning Commission, may require one or more of the following as part of final development plan submission:
 - (i) Evidence of market need for the use(s) and economic feasibility of the project.
 - (ii) A Traffic Impact Assessment.
 - (iii) An Environmental Impact Assessment.
 - (iv) A Fiscal Impact Assessment.
 - (v) A proposed soil erosion and sedimentation plan.

Section 12.8 Public Hearing Required. The Village Council shall hold a public hearing on all PUD applications prior to their final approval by the Village Council. Notice of the public hearing at the Village Council shall be provided in accordance with Section 19.7 of this Ordinance.

The Planning Commission may, if it chooses to do so, also hold a public hearing on a PUD application prior to its recommendation to the Village Council regarding the PUD. If such a public hearing is held by the Planning Commission, it shall also provide notice of its public hearing in accordance with Section 19.7 of this Ordinance.

Section 12.9 Planning Commission Action. Following the public hearing, the Planning Commission shall recommend to either approve, deny, or approve with conditions, the final development plan. It shall forward its recommendations along with any comments received at the public hearing to the Village Council.

Section 12.10 Standards for Approval. In making its recommendation, the Planning Commission shall find that the proposed PUD meets the intent of the PUD District and the standards:

- (a) Granting of the Planned Unit Development rezoning will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.
- (b) In relation to current zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.
- (c) The proposed development shall be compatible with the General Development Plan of the Village and shall be consistent with the intent and spirit of this chapter.
- (d) In relation to current zoning, the proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.
- (e) The Planned Unit Development shall not change the essential character of the surrounding area.
- (f) The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Village Clerk.

Section 12.11 Final Action by the Village Council. Final action on the PUD application shall be made by the Village Council. After receiving the recommendation of the Planning Commission, the Village Council shall either approve, deny, or approve with conditions, the

PUD application and final site plan in accordance with the requirements and the standards for approval and conditions for a PUD as contained herein.

Section 12.12 Conditions.

- (a) In approving a Planned Unit Development, the Village Council may impose reasonable conditions which include but are not limited to conditions necessary to: ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protect the natural environment and conserve natural resources and energy; ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
 - (1) Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- (b) The conditions imposed with respect to the approval of a PUD shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Village Council and the landowner. The Village Council shall maintain a record of conditions which are unchanged. The final development plan, as approved, shall act as a restriction upon the development. The development must conform with the final development plan.

Section 12.13 Performance Guarantees. The Village Council, after recommendation from the Planning Commission or at its own discretion, may require a performance bond or similar guarantee in order to ensure the completion of required improvements.

Section 12.14 Phasing and Commencement of Construction.

- (a) **Phasing.** If a project is proposed for construction in phases, the planning and design shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the Planned Unit Development and the residents of the surrounding area. In addition, in

developments which include mixed residential and non-residential uses, phasing shall be such that at least thirty-five percent (35%) of all proposed residential units are completed concurrent with the first phase of any non-residential construction; completion of at least seventy-five percent (75%) of all proposed residential construction prior to the second phase of non-residential construction; and completion of one hundred percent (100%) of all residential construction prior to the third or final phase of non-residential construction. The percentages shall be approximations and determined at the discretion of the Village Council upon review and recommendation of the Planning Commission. The percentages may be significantly varied should the Village Council determine that the applicant has presented adequate assurances that the residential components or components of the project shall be completed within a specified period.

- (b) **Commencement and Completion of Construction.** Construction shall be commenced within one (1) year following final approval of a Planned Unit Development or within one (1) year of any other necessary governmental approval for commencement of the project, whichever is later, provided all other necessary approvals have been actively pursued. If construction is not commenced within such time, approval of the final plan for the project shall expire. An extension for a specified period may be granted by the Village Council upon good cause shown if such request is made to the Village Council prior to the expiration of the initial period. Moreover, in the event a final plan has expired, the Village Council may begin proceedings to rezone the property in any reasonable manner. If a final PUD plan has expired and at the discretion of the Council, the property still remains classified as Planned Unit Development, a new final plan application shall be required prior to the commencement of any new construction and shall be reviewed in light of the then prevailing conditions and applicable law and ordinance provisions.

Section 12.15 Effect of Approval. The Planned Unit Development zoning amendment and all conditions imposed, if any, shall constitute the land use authorization for the property. All improvements and uses shall be in conformity with this amendment. The applicant shall record an affidavit with the Kent County Register of Deeds which shall contain the following:

- (a) Date of approval of the PUD by the Village Council and effective date.
- (b) Legal description of the property.
- (c) Legal description of the required open space along with a plan stating how this open space is to be maintained.
- (d) A statement that the property will be developed in accordance with the approved PUD site plan and the conditions imposed by the Village Council unless an amendment thereto is duly approved by the Village upon the request and/or approval of the applicant or applicant's transferee's and/or assigns, or the PUD zoning has been removed pursuant to Section 12.14(b) above.

Section 12.16 Modification of a PUD. Minor changes to a PUD site plan may be approved administratively by the Zoning Administrator provided the changes comply with all applicable requirements of this Zoning Ordinance and all other Village regulations or state law. Minor changes subject to administrative review include slight dimension changes, slight building, parking and driveway relocation, change in landscaping, signs, lighting, decrease in building size and increase in building size that does not exceed five thousand (5,000) square feet or five percent (5%) of the gross floor area, whichever is smaller and other alterations that would be deemed by the Village Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on the development on adjacent or nearby lands or the public health, safety and welfare.

A major change to an approved PUD shall comply with the filing procedures for a PUD as contained herein. Major changes include but are not limited to increase in density or number of dwelling units, increase in land area or building size, except as noted above or addition of other uses not authorized by the original PUD approval. The Zoning Administrator shall determine if requested changes constitute a major amendment and shall provide the Planning Commission and Village Council with a record of any and all minor changes approved administratively. Alternatively, the Zoning Administrator may, in his or her discretion, refer determinations of whether a change is minor or major, and determination of whether to permit a requested minor change, to the Planning Commission for decision.

Section 12.17 Fees. There shall be advanced payment of fees at the time of filing of the Preliminary Plan application. The amount of such fees shall be established by the Village Council by resolution.

Section 12.18 Village-Initiated Rezoning.

- (a) Notwithstanding any provision to the contrary in this chapter, the Village may, in its sole discretion, rezone specific identified property to the PUD District in advance of receiving an application for such rezoning; provided, however, that if such Village-initiated rezoning to the PUD District is performed, the rezoned property, as a condition of rezoning to the PUD District, shall be allowed to be developed as permitted by the zoning district in which the property was zoned, immediately prior to the rezoning to the PUD District. Such condition shall expire, however, after the property has already been developed in accordance with an approved final PUD site plan. The Village Council may impose such other terms and conditions on a Village-initiated rezoning to the PUD District as would be consistent with the purposes and intent of this chapter.
- (b) When Village-initiated rezoning of a property to the PUD District has been performed, development of the rezoned property as a PUD shall not be permitted until such time as the Village Council has approved a final PUD site plan pursuant to the requirements and procedures of this chapter, which procedures shall be modified in that instance so as not to require an additional rezoning.

CHAPTER XIII SPECIAL LAND USES

Section 13.1 Intent and Purpose. Various land uses and activities possess unique characteristics which, under certain conditions, require special limitations and controls to insure compatibility with adjacent land uses, with the natural environment, and with existing and projected capacities of public services and facilities affected by such uses or activities. These have been designated as “special land uses.” The intent of this chapter is to permit such special land uses only after the designated body or official reviews each such use and, if necessary, imposes reasonable controls to ensure that public services and facilities will be capable of accommodating increased service requirements, and in order to protect the natural environment and conserve natural resources and energy, and to promote the use of land in a socially and economically desirable manner.

Section 13.2 Special Land Uses Permitted. Upon the terms and subject to all of the requirements of this chapter, the following special land uses may be permitted:

- (a) Churches; public and private schools; other buildings for school purposes.
- (b) Libraries, museums, parks, playgrounds, community centers, governmental office buildings and other governmental buildings.
- (c) General or specialized hospitals.
- (d) A child care center, group home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions.
- (e) Public utility buildings; electrical substations, gas regulator stations and other major public utility facilities.
- (f) Wireless communication antennas, towers and associated equipment that are not permitted uses under Section 3.36(a).
- (g) Agricultural fairs, carnivals, circuses, horse shows and hot air balloon ascension businesses.
- (h) Nursing homes, homes for the aged, and those state-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.

- (i) Adult uses.
- (j) Other special land uses permitted under other provisions of this Ordinance.
- (k) The special land uses permitted under this Section 13.2 shall be subject to review and approval by the Planning Commission.

Section 13.3 Required Conditions. The following conditions shall be required for or in connection with the following special land uses:

- (a) Churches; public and private schools; other buildings for school purposes; libraries, museums, parks, playgrounds, community centers, governmental office buildings and other governmental buildings.
 - (1) Buildings shall be located at least fifty (50) feet from any lot line; provided, however, the Planning Commission may in its discretion approve a lesser distance if it determines that the topography or the conditions of the land, building or structures warrant a lesser distance and further determines that such lesser distance would not injure property rights commonly enjoyed by other properties in the same zoning district and would not be a substantial detriment to adjacent or nearby lands, structures or buildings.
 - (2) Adequate off-street parking shall be provided.
- (b) Child care facilities, group homes, nursing homes and other similar facilities.
 - (1) Requirements for child care facilities, group homes and care homes permitted as a special land use under Sections 5.3(d) (AG Agricultural-Residential District), 6.3(e) (R-1 Low Density Single Family District), 7.3(f) (R-2 Medium Density Single Family District), 8.3(g) (R-3 Medium Density Multiple Family District), 8A.3(g) (R-4 High Density Multiple Family District), 9.3(c) (C-1 Neighborhood Commercial District), and 10.3(g) (Highway Business District). A facility of this type shall be permitted as a special land use in the foregoing districts if the following conditions are satisfied:
 - (i) **Lot size.** The lot size shall be not less than the minimum lot size applicable in the district in which the facility is located.
 - (ii) **Parking.** Parking shall conform to the parking regulations applicable in the district in which the facility is located. The facility shall have no less than one parking space for each owner/operator and one parking space for every two persons being served (based on approved capacity).

- (iii) **Fire Chief and Health Department Approvals.** The facility shall be subject to the approval of the Township fire chief and subject to all state and county health department requirements.
- (iv) **Fencing.** All outdoor play areas shall be enclosed by a chain link fence or solid fence of at least four feet in height, which shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet.
- (v) **Operating Hours.** Operating hours of any facility providing day care shall not exceed 16 hours during any 24-hour period, and unless specifically approved by the Planning Commission based upon a finding under particular circumstances of no negative impact on neighboring properties or the surrounding area, shall be limited from 6 a.m. to 10 p.m. daily.
- (vi) **Property Appearance.** The property shall be maintained consistent with the visible characteristics of the neighborhood.
- (vii) **Signs.** Signs shall conform to the sign regulations applicable in the district in which the facility is located.
- (viii) **Licensing.** The facility shall be registered and licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended.
- (ix) **Outdoor Play Area.** A child care center or other facility offering services to more than six minors shall provide and maintain an outdoor play area of not less than 5,000 square feet. The area shall be free from sharp gravel, glass or cinder and shall be well drained. The outdoor play area shall be completely enclosed by a chain link fence or a solid fence of at least four feet in height and shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet. In its discretion, the Planning Commission may permit an outdoor play area of less than 5,000 square feet if it is demonstrated that such minimum is not necessary to preserve the residential character of the property. In making this determination, the Planning Commission shall consider the amount of outdoor play area proposed, the number of children, the hours of operation and the type of recreational activities provided indoors and outdoors.
- (x) **Refuse Collection.** All refuse collection facilities shall be screened from view by adequate fencing.
- (xi) **Distance between Facilities.** A home or facility seeking approval under this section shall not be located within 1,500 feet of any

existing child care facility, group home or other facility described in this section.

- (xii) **Impact on Neighborhood.** The facility shall be harmonious with the character of the neighborhood and shall not have a negative impact on or injure nearby properties or the use and enjoyment of nearby properties.

- (2) Requirements for nursing homes, homes for the aged, those state-licensed residential facilities serving more than 12 persons permitted as special land uses under Section 8.3(a) (R-3 District), 8A.3(a) (R-4 District), 9.3(d) (C-1 District) and 10.3(g) (C-2 District), and facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities. A facility under this section may be permitted in the foregoing districts if the following conditions are satisfied:

- (i) **Lot Size.** The minimum lot size shall be calculated by multiplying the number of persons approved for capacity of the facility by 5,000 square feet, but in no event shall the minimum lot size be less than two acres.
- (ii) **Parking.** Parking shall conform to the parking regulations applicable in the district in which the facility is located. The facility shall have no less than one parking space for each owner/operator and one parking space for every two persons being served (based on approved capacity).
- (iii) **Setbacks.** No part of the facility building or buildings may be closer than 100 feet to an adjacent lot line; except that the Planning Commission may reduce this setback requirement to not less than 25 feet if it finds that such reduction in the setback will not be injurious to the use or enjoyment of nearby properties; will not result in traffic or other safety hazards; and will not materially impair the intent and purpose of this Ordinance or the public's interest. In modifying such setback requirements, the Planning Commission may attach conditions regarding the location, character, landscaping or treatment of the buildings or premises or other such matters as are reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the public's interest.
- (iv) **Building Size.** The building must provide for each tenant, elderly or retired person or minor in the building or buildings so used a minimum floor area exclusive of basement or attic space of 250 square feet.

- (v) **Fire Chief and Health Department Approvals.** The facility shall be subject to the approval of the Township fire chief and subject to all state and county health department requirements.
- (vi) **Fencing.** All outdoor play areas shall be enclosed by a chain link fence or solid fence of at least four feet in height, which shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet.
- (vii) **Operating Hours.** Operating hours of any facility providing day care shall not exceed 16 hours during any 24-hour period, and unless specifically approved by the Planning Commission based upon a finding under particular circumstances of no negative impact on neighboring properties or the surrounding area, shall be limited from 6 a.m. to 10 p.m. daily.
- (viii) **Outdoor Play Area.** A child care center or other facility offering services to more than six minors shall provide and maintain an outdoor play area of not less than 5,000 square feet. The area shall be free from sharp gravel, glass or cinder and shall be well drained. The outdoor play area shall be completely enclosed by a chain link fence or a solid fence of at least four feet in height and shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet. In its discretion, the Planning Commission may permit an outdoor play area of less than 5,000 square feet if it is demonstrated that such minimum is not necessary to preserve the residential character of a property, or it may require a larger play area for larger facilities. In making its determination regarding the size of the play area, the Planning Commission shall consider the amount of outdoor play area proposed, the number of children, the hours of operation and the type of recreational activities provided indoors and outdoors.
- (ix) **Refuse Collection.** All refuse collection facilities shall be screened from view by adequate fencing.
- (x) **Property Appearance.** The property shall be maintained consistent with the visible characteristics of the neighborhood.
- (xi) **Signs.** Signs shall conform to the sign regulations applicable in the district in which the facility is located.
- (xii) **Licensing of Facilities.** Homes for the aged shall be registered and licensed as required under Part 213 of the Public Health Code, MCL 333.21301 et seq., as amended. Nursing homes shall be registered and licensed as required under Part 217 of the Public Health Code, MCL 333.21701 et seq., as amended.

(xiii) **Impact on Neighborhood.** The facility shall be harmonious with the character of the neighborhood and shall not have a negative impact on or injure nearby properties or the use and enjoyment of nearby properties.

(3) **Child Care Center as Accessory Use.** A child care center or day care center (a “child care facility”) may be permitted as an accessory use for a church, nursing home, home for the aged or a business, subject to review and approval by the Planning Commission according to the requirements provided for special land uses by this chapter and the standards provided in Section 13.3(b)(2), and subject to all of the following additional conditions and requirements.

(i) The child care facility may receive infants, pre-school and elementary school age children for care (including, without limitation, supervision, training or educational instruction) for periods of less than 24 hours per day.

(ii) The child care facility shall provide care primarily to children of employees of the facility while those employees are engaged in carrying out their employment with the facility. The requirements of this paragraph shall be deemed satisfied so long as preference in admission to the facility shall be given to children of employees prior to the admission of any children of persons who are not employees of the facility. This paragraph shall not apply to churches.

(iii) The principal functions of the child care facility accessory to a nursing home or home for the aged shall be to provide opportunities for the interaction of, and to foster an inter-generational relationship between, the elderly residents of the facility and the children attending the child care facility, and to provide child care for the children of employees of the facility. The principal function of a child care facility accessory to a business shall be to provide child care for the employees of the business.

(iv) The child care facility shall be located on the same property as the home, church or business to which the child care facility is accessory.

(v) The child care facility shall provide appropriate fencing, child drop-off and pick-up areas, and other facilities, design elements and operational characteristics for the safety of the children attending the child care facility, as determined necessary by the Planning Commission.

- (vi) The child care facility shall be registered and licensed as required for “child care centers” or “day care centers” under the Child Care Organizations Act (Act 116 of the Public Acts of 1973, as amended).
- (c) Public utility buildings; electrical substations, gas regulator stations and other major public utility facilities.
 - (1) The architecture of buildings shall not be incompatible with buildings in the immediate area.
 - (2) There shall be suitable landscaping, so as to buffer the facility from adjacent and nearby lands.
 - (3) Fencing shall be provided if required by the Planning Commission.
- (d) Agricultural fairs, carnivals, circuses, horse shows and hot air balloon ascension businesses.
 - (1) The use shall be operated so as not to be a hazard to any members of the public.
 - (2) The use shall provide off-street parking sufficient to accommodate all employees, patrons and spectators.
 - (3) The use shall be operated in such a manner as not to adversely affect neighboring lands.
 - (4) The use shall be subject to limitations as to size, hours of operation and location.
 - (5) The use shall be duly licensed by all governmental agencies having jurisdiction.
 - (6) Except where the Village Council or Planning Commission imposes stricter standards, the use shall satisfy all of the area and yard requirements of the AG District.
- (e) Off-site parking lots not associated with another principal use on the lot.
 - (1) The parking lot may be used only for the parking of private passenger vehicles, and may not be used for commercial vehicles.
 - (2) Parking lots adjacent to residential uses may not be used for any other business activity, such as fairs, carnivals, flea markets, or entertainment, unless further authorization for such use is approved in accordance with

this Zoning Ordinance. Under no circumstances shall the parking lot be used for the sale, long-term storage, display, repair or service of vehicles.

- (3) The proposed parking lot must be contiguous to an existing business or industrial use on at least two sides; provided, however, an alley or street may separate the lot and the business or industrial use on not more than one of the two sides required to be contiguous to existing business or industrial use.
 - (4) No advertising signs or billboards shall be permitted within the parking lot. Reasonable and required directional signs, handicapped parking signs, and similar signs shall be permitted.
 - (5) The parking lot shall be constructed in accordance with Sections 16.4 and 16.5.
 - (6) The Planning Commission and Village Council may require fencing, regulate lighting, require pedestrian access routes, sidewalks, trash receptacles and require other improvements or features or improved conditions to insure compatibility with neighboring land uses and the public health and safety.
- (f) Adult uses, as defined in this subsection.
- (1) An adult use shall be permitted only as a special land use, upon approval by the Planning Commission under this chapter and other applicable provisions of this Ordinance.
 - (2) Special regulation of adult uses is necessary in order to ensure that their adverse effects will not contribute to the blighting or downgrading of the surrounding area. Such regulation is for the purpose of preventing a concentration of adult uses in any one area of the Village, so as to ensure the integrity of residential and other areas, and to protect the integrity of churches and other places of religious worship, schools, parks and playgrounds and other areas of the Village. Nothing in this section shall be construed as permitting or allowing a violation of any state or federal law. It is not the intent of this subsection to suppress any activity protected by the first amendment of the U. S. Constitution or the Michigan Constitution, but to adopt provisions which address the adverse secondary effects of adult uses.
 - (3) The land uses that are subject to these regulations are the following:
 - (i) Adult retail stores.
 - (ii) Adult theaters.

- (iii) Cabarets.
 - (iv) Massage parlors.
 - (v) Liquor licensed establishments.
- (4) As used in this subsection, the following terms shall have the indicated meanings:
- (i) **Adult Retail Store.** An establishment having as a substantial or significant portion of its stock in trade which is for sale, lease, and/or display, books, magazines or other periodicals and/or videos which are distinguished or characterized by their emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in this Ordinance, for sale to or viewing by patrons therein.
 - (ii) **Adult Theater.** Any establishment used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein for observation by patrons therein. The presentation of such material includes all methods of presentation, whether to groups or to individuals, including, but not limited to: motion pictures, still photos, slide projections, television, cable television and/or the playing of video recordings.
 - (iii) **Adult Use.** A building or other enclosure used for an Adult Retail Store, Adult Theater, Cabaret or Massage Parlor.
 - (iv) **Cabaret.** An establishment for entertainment which features topless dancers, strippers, male or female impersonators, or similar entertainers who exhibit “specified anatomical areas” or who exhibit “specified sexual activities” as defined herein for observation by patrons.
 - (v) **Licensee.** A person or entity having a license to sell alcoholic liquor, beer, wine or any of them, and the owners, officers, agents, and employees of such person or entity.
 - (vi) **Massage Parlor.** Massage parlor: Any establishment having a fixed place of business where massages are administered solely or in combination with any other services or activity for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include the following:

- (I) A hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan;
 - (II) Establishments where massage is provided only by persons who have successfully completed not less than five hundred (500) hours of training from a recognized school or state accredited college or university or have been approved by the National Certification Board for Therapeutic Massage and Bodywork or are certified as a massage therapist by the American Massage Therapy Association;
 - (III) Barber shops, beauty salons, athletic facilities or separate service establishments where massages are administered only to the scalp, the face, the neck, the feet, the legs below the buttocks and below the genitals and pubic area, the arms, hands and shoulders, or the back above the waist; or
 - (IV) Nonprofit organizations operating a community center, swimming pool or tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.
- (vii) **Nudity.** A state of undress so as to expose to the view of another person any of the following body parts, either directly or indirectly, including, but not limited to, exposure with less than a fully opaque covering of all or part of the pubic region; all or part of the buttocks; all or part of the genitals; or any portion of the female breast below the top of the areola. A woman's breast-feeding of an infant does not constitute nudity.
 - (viii) **Specified Anatomical Areas.** Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - (ix) **Specified Sexual Activities.** Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; or the fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (5) Nudity is prohibited in liquor licensed establishments, as stated in this subsection.

- (i) A licensee shall not permit or allow any person in a state of nudity to be in or upon premises that are licensed or subject to licensing by the Michigan Liquor Control Commission.
 - (ii) A licensee shall not hire, employ, or procure a person to appear in a state of nudity in or upon premises licensed or subject to licensing by the Michigan Liquor Control Commission.
 - (iii) No person shall appear in a state of nudity in or upon premises licensed or subject to licensing by the Michigan Liquor Control Commission.
 - (iv) A licensee shall not permit or allow in or upon premises licensed or subject to licensing by the Michigan Liquor Control Commission the showing of films, television, slides, or other photographic, or other electronic reproductions which depict views or scenes wherein any person appears in a state of nudity. This prohibition shall not apply to any public broadcast television transmission from a federally licensed television station.
- (6) Adult uses shall comply with all of the following requirements:
- (i) An adult use shall not be located within a seven hundred fifty (750) foot radius of any other adult use.
 - (ii) An adult use shall not be located within a seven hundred fifty (750) foot radius from any church, park, school, community center, public building, playground or school bus stop.
 - (iii) An adult use shall not be located within seven hundred fifty (750) feet of any residentially-zoned land.
 - (iv) Any person massaging any customer or other person must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a school of massage therapy that is certified by the State of Michigan, or have such other similar qualifications as are approved by the Planning Commission. All massage clinics or establishments are subject to inspection from time to time by the Building Inspector and shall be required to file an annual report to the Village, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.
 - (v) Any sign, message, image or picture that depicts or refers to any specified anatomical area or specified sexual activity shall be prohibited. All signs shall comply with the requirements of Chapter XV.

- (7) Any graffiti appearing on any exterior surface of a building or structure used as an adult use shall be removed and the surface restored within three days of notification given to the owner or other person in charge of the premises. Adult products or services, or any picture or other representation of the same, shall not be displayed so as to be visible from any point outside the establishment.
 - (8) All adult uses shall be required to install outdoor low intensity lighting that illuminates the entire parking and vehicular use area, if the use has an off-street parking area. Other aspects of required outdoor lighting shall be as determined by the Planning Commission.
 - (9) No person operating an adult use shall permit any person under the age of eighteen (18) years to be on the premises, either as an employee or customer.
 - (10) The hours of operation of an adult use shall be limited to the period from 10:00 a.m. to 10:00 p.m.
 - (11) Open alcohol shall not be permitted in or about any adult use.
 - (12) The provisions of this subsection do not waive or modify any other applicable provisions. Any adult use shall obtain all other permits or licenses that may be required by law.
- (g) Grain elevators and facilities for the storage and shipping of grain, silage, feed, fertilizer, lumber, agronomy products, and similar commodities.
- (1) All operations and activities, other than parking, loading and storage, shall be conducted wholly within enclosed buildings.
 - (2) Outdoor storage of materials or equipment shall only be permitted in areas approved in advance as part of the site plan approval. Outdoor storage areas shall be screened from the view of neighboring properties and streets through the use of an approved landscape screen, buffer, wall or solid fence. Outdoor storage shall be on hard surfaced areas unless another surface is specifically authorized. Outdoor storage is not permitted in any minimum setback area that is adjacent to an AG, R-1, R-2, R-3, R-4 District or residential PUD.
 - (3) No activity shall emit or produce odor, fumes, smoke, particulates, dust, glare, vibration, electromagnetic radiation or heat that will adversely affect permitted uses on neighboring properties.
 - (4) No activity shall emit noise that is readily discernable to the average person in any adjacent residential zone district, provided, however, air handling equipment in proper working condition shall be deemed to

comply with this provision if located on a roof and equipped with intervening noise reduction baffles or if located on the side of a building facing away from the residential zone.

- (h) **An Accessory Residential Use.** In addition to a permitted commercial use as provided in Chapter 9, a parcel in the C-1 Neighborhood Business District may contain one single family dwelling meeting the requirements of this section (an “Accessory Residential Use”) if the Accessory Residential Use is approved as a special land use by the Planning Commission. The Accessory Residential Use shall meet each of the following requirements:
- (1) The Accessory Residential Use shall consist of one single family dwelling located in the principal commercial structure, with not less than 650 square feet of usable floor area for a one bedroom unit and an additional 100 square feet of usable floor area for each additional bedroom.
 - (2) Not less than 450 square feet of the usable floor area on the first floor shall be devoted to the non-residential commercial use. If a visible residential use is inconsistent with or may diminish the commercial character or appearance of the vicinity, such as in areas where pedestrian or vehicular customer or commercial traffic is present, the planning commission may require that the non-residential commercial portion of the use be located on the first floor, adjacent to the street, so as to maintain the area’s commercial character and appearance.
 - (3) The Accessory Residential Use shall comply with all applicable building code requirements and state and federal laws, including accessibility requirements of the Americans with Disabilities Act.
 - (4) Two off-street parking spaces shall be clearly marked and designated as reserved for residential use only. The planning commission may in its discretion reduce or eliminate this requirement if the applicant can demonstrate that off-street parking is not reasonably available to the applicant and on-street parking, municipal parking or some other sufficient parking arrangement is available.
 - (5) The Accessory Residential Use shall be separated by solid wall and/or lockable door from the non-residential use and shall have a separate means of ingress and egress. If the Accessory Residential Use is not located on the ground floor, a separate internal or external staircase for use only by the Accessory Residential Use shall be provided.
 - (6) An Accessory Residential Use shall not be permitted in a location where odor, smoke, noise, glare, fumes, gas, vibration, unusual danger of fire or explosion, emission of particulate matter or interference with radio or telephone communication, or other similar conditions associated with

non-residential uses on the premises or in the vicinity, would be incompatible with a single family dwelling in such a location.

- (i) **Wireless Communications, Towers and Antennas.** The following provisions shall govern the issuance of special land use permits for towers or antennas by the Planning Commission:
 - (1) **Special Land Use.** If the tower or antenna is not a permitted use under the provisions this ordinance, then a special land use permit shall be required for the construction of a tower or the placement of an antenna in any zoning district.
 - (2) **Conditions.** In granting a special land use permit, the Planning Commission may impose such conditions that the Planning Commission concludes are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
 - (3) **Posting Security.** The Planning Commission may require that security be posted at the time of receiving a building permit for the wireless telecommunication tower to ensure removal of the structure when it has been abandoned and is no longer needed. This security shall, at the election of the Village, be in the form of cash, surety bond, letter of credit or an agreement in a form approved by the Village Attorney and recordable in the Office of the Kent County Register of Deeds. The applicant and owner of the property shall promise to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for payment of any costs and attorney's fees incurred by the Village in securing removal, if the Village proceeds to remove the tower and facilities after the applicant and owner fail to do so.
 - (4) **Engineer Certification.** Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. Such an engineer shall certify that the tower or antenna will be structurally sound and will comply with all applicable building and other construction code requirements.
 - (5) **Processing Special Land Use Applications.** Applicants for a special land use permit for a tower or an antenna shall submit the following information, in addition to any other information required by this ordinance:
 - (i) A scaled site plan showing the location, type and height of the proposed tower or antenna; on-site land uses and zoning; adjacent land uses and zoning (even if adjacent to another municipality); General Development Plan classification of the site and all properties within the applicable separation distances set forth in

this ordinance; adjacent roadways; proposed means of access; setbacks from property lines; elevation drawings of the proposed tower or antenna and any other structures; topography; parking; and other information deemed necessary by the Zoning Administrator or Planning Commission to assess compliance with this ordinance.

- (ii) Legal description of the lot and the leased portion of the lot (if applicable), together with a copy of the deed or lease pertaining to that lot.
- (iii) The setback distance between the proposed tower or antenna and the nearest dwelling, platted residentially-zoned properties and unplatted residentially-zoned properties.
- (iv) The separation distance from other towers or antennas described in the inventory of existing sites submitted pursuant to Section 3.36, the type of construction of those existing towers or antennas, and the owners/operators of those existing towers and antennas, if known. Addition of a tower in locations where co-location capacity or alternative means for transmission exists shall be discouraged. Based on signal strength and other factors, towers shall be located so as to reasonably minimize the total number of necessary towers in the Village.
- (v) A landscape plan showing specific landscape materials.
- (vi) Traffic protection devices, such as concrete or steel bollards, poles or pylons, may be required in cases where traffic is a concern.
- (vii) Method of fencing, finished color and, if applicable, the method of camouflage and illumination. Fencing shall be six (6) feet in height and shall include a locked gate.
- (viii) A description of compliance with the requirements of this chapter, and of all applicable federal, state, county or Village laws, rules, regulations and ordinances, including, if applicable, compliance with Federal Aviation Administration compliance for towers in close proximity to an airport.
- (ix) A notarized statement by the applicant for a tower, indicating if the tower will accommodate co-location of additional antennas for future users.
- (x) A description of the services to be provided by the proposed new tower or antenna, and any alternative ways to provide those services without the proposed new tower or antenna.

- (xi) A description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower or antenna is erected.
- (xii) The name, address and telephone number of the person or persons to contact for engineering, maintenance or other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

(6) **Factors Considered in Granting Special Land Use Permits for Towers or Antennas.** In addition to any other standards specified in this ordinance for considering special land use permit applications, the Planning Commission shall consider the following factors in determining whether to issue a special land use permit under this chapter:

- (i) Height of the proposed tower or antenna. Towers shall not exceed 199 feet in height. Towers shall not be permitted if they must be lighted, unless public necessity requires such a tower within the Village and no reasonable alternative exists. This restriction applies to prohibit increases in the height of a previously unlighted tower if the increase in height would require that lighting be added to the tower.
- (ii) Proximity of the proposed tower or antenna to residential structures, residential district boundaries and airports. Towers shall be located in commercial or industrial areas or publicly-owned properties wherever possible.
- (iii) Proximity of proposed tower or antenna to vehicular traffic and roadways; risk of traffic damage to proposed tower and associated equipment.
- (iv) Nature of uses on adjacent and nearby properties.
- (v) Surrounding topography.
- (vi) Surrounding tree coverage and foliage.
- (vii) Design of the proposed tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness. Designs that employ water towers, man-made trees, clock towers, bell steeples, church spires, light poles, elevator bulkheads and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers shall be favored.

- (viii) Proposed ingress and egress to the proposed tower or antenna.
 - (ix) Availability of suitable existing towers or antennas, other structures, or alternative technologies not requiring the use of towers or antennas or other structures.
 - (x) The effect of the proposed tower or antenna on the conforming properties and the surrounding neighborhood.
 - (xi) Whether or not the proposed tower or antenna is located in zoning districts or on structures where the Village intends at least most towers and antennas in the Village to be located, as described above in this part (6).
- (7) **Background.** The Village has received or expects to receive requests to site wireless communications, towers and antennas within its boundaries. The Village finds that it is in the public interest to permit the siting of wireless communications, towers and antennas within its boundaries. It is the Village's intent to permit the siting of wireless communications, towers and antennas within its boundaries. It is the Village's intent to protect and promote the public health, safety and welfare by regulating the siting of wireless communications, towers and antennas within its boundaries.
- (8) **Purpose and Goals.** This chapter's purpose is to establish general guidelines for siting wireless communications, towers and antennas. This chapter's goals are to:
- (i) Protect residential areas and land uses from potential adverse impacts of towers and antennas.
 - (ii) Encourage the location of towers and antennas in non-residential areas.
 - (iii) Minimize the total number of towers and antennas throughout the Village.
 - (iv) Promote the joint use of existing tower sites rather than construction of additional towers.
 - (v) Promote the location of towers and antennas in areas and locations where the adverse impact on the Village is minimal.
 - (vi) Promote the configuration of towers and antennas to minimize their adverse visual impact through careful design, siting, landscape screening and innovative camouflaging techniques; and

promote co-location of towers and/or multiple antennas on common towers.

- (vii) Promote telecommunications services to the Village that are quick, effective and efficient.
- (viii) Protect the public health and safety of the Village and its residents.
- (ix) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures; design and installation of protective traffic devices and other safeguards, as appropriate.
- (x) To further these goals, the Village shall consider its General Development Plan, zoning map, existing land uses and environmentally sensitive areas in approving sites for the location of towers and antennas.

Section 13.4 Application Procedure. The following procedures shall be followed in making application for a special land use:

- (a) **Written Application.** A written application for a special land use shall be submitted to the Village Clerk indicating the following:
 - (1) The name, address and telephone number of the applicant; the address or brief description of the location of the property involving the proposed special land use; and the date of application.
 - (2) A statement indicating the sections of this Ordinance under which the special land use is sought; the grounds upon which it is requested; and the authorizing administrative body or official.
- (b) **Permit Fees.** Fees for a special land use shall be paid at the time of application in accordance with the fee schedule established by the Village Council.
- (c) **Site Development Plan Required.** A site development plan as described herein shall be submitted at the time of application. A site development plan shall include the location and dimensions of all proposed and/or existing buildings and structures; site drainage, sewer and water facilities; parking, loading, and other vehicle or pedestrian traffic handling facilities; and proposed general landscaping including required greenbelts, screens, fences or other buffering devices. Each such plan shall also include a small locational map showing all streets and zoning districts within one mile of the proposed special land use.

Section 13.5 Public Hearing. All special land use applications and site development plans shall be promptly transmitted to the Planning Commission. The Planning Commission shall hold

at least one public hearing on all special land use requests it receives and shall provide notice for said hearing in the manner provided in Section 19.7 of the zoning ordinance.

Section 13.6 Standards for Considering Special Land Uses. Except as they reasonably do not apply, the following standards shall be used by the Planning Commission and/or the Village Council when considering applications for a special land use.

- (a) The size, character and nature of any buildings or structures to be erected, constructed or located upon the lot shall not create serious social, economic or visual conflicts with adjacent land uses or the immediate neighborhood.
- (b) The proposed use of land, buildings or structures shall not create substantial adverse or hazardous environmental conditions for adjacent property owners or the surrounding neighborhood. For the purposes of special land use review only, “environmental conditions” shall include, but not be limited to the following general categories:
 - (1) Dispersion of light, heat or other forms of radiant energy.
 - (2) Soil, air and water quality and movement.
 - (3) Noise, both volume and pitch.
 - (4) Abundance and type of wildlife and vegetation.
- (c) The population or use density resulting from a special land use shall not be so substantially greater than the population or use density prevailing in the surrounding area so as to increase the likelihood of further requests for other land use changes which, if granted, would not conform to the land use types, patterns or density proposed for the surrounding area by the Village Land Use Plan.
- (d) Vehicular and pedestrian traffic circulation shall be designed to minimize conflicts on public streets and upon the property involved and to provide safe and convenient parking in relation to street pedestrian walkways, and adjoining properties or parking areas.
- (e) Safe and adequate water supply and sewage disposal facilities shall be provided as required by county and state regulations and shall be designed for compatibility with existing systems and future development.
- (f) The period of day and times of the year during which a special land use activity commences or continues should be reasonably related to both the use and the neighborhood or area in which it is proposed.
- (g) The proposed use shall not create excessive additional demand, at public cost, for public facilities and services.

- (h) The proposed use shall be consistent with the intent and purpose of the zoning district in which it is proposed to be located with the overall intent and purpose of this Ordinance, and with other applicable ordinances and statutes.

Section 13.7 Performance Bonds. Whenever in the opinion of the Planning Commission or Village Council a performance bond or letter of credit is necessary to ensure compliance with the terms of this chapter, and compliance with any conditions of approval, an applicant for a special land use shall file a performance bond with surety or a letter of credit, having terms satisfactory to the approving authority of the Village.

Section 13.8 Issuance of a Special Land Use Permit. Where such authority is granted under the terms of this Ordinance, the Planning Commission or Village Council shall grant a special land use upon the finding that the proposed special land use is in compliance with the standards specified in Section 13.6; provided, however, that the Planning Commission or Village Council may stipulate additional conditions and guarantees that all conditions will be complied with when, in order to fully comply with the intent of this Ordinance, such additional conditions may be deemed necessary. Before rendering such a decision, said special land use shall be thoroughly reviewed, using reliable, pertinent information.

The Village Council shall not render a decision on any special land use request until it receives the recommendations of the Planning Commission and a summary of comments received at the public hearing. Upon making a decision on whether to deny, approve, or approve with conditions a special land use permit, the authorizing body shall incorporate their decision in a statement containing the conclusions relative to the special land use which specifies the basis for the decision and all additional conditions, limitations and requirements upon which the special land use permit is granted. The statement shall be recorded in a record of the approval action and shall be filed together with the special land use application and site development plan with the Zoning Inspector. The authorizing body shall have the right to impose conditions which limit the duration of the special land use where the same is of a temporary nature. If deemed necessary to meet the purpose and intent of this Ordinance, the authorizing body may require that the special land use be periodically reviewed for the purpose of determining whether or not to suspend, revoke or require further conditions or limitations, depending upon the degree of compliance then prevailing. All conditions of the special land use approval shall remain unchanged except upon the mutual consent of the authorizing body and the special land use applicant.

The authorizing body shall maintain a record of all conditions which are changed and said record shall be filed with the Zoning Inspector. The breach of, or noncompliance with, any conditions of the special land use shall automatically invalidate the approval granted.

Section 13.9 Expiration. Any special land use granted pursuant to the terms of this chapter, under which the authorized use or activity has not commenced within one year, shall be of no further force or effect in the absence of such commencement within one year, unless such provides otherwise.

Section 13.10 Reapplication. Any application for a special land use which has been denied, wholly or in part, by the authorized body, shall not be resubmitted until the expiration of one year from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions sufficient to justify reconsideration by the Village authority having jurisdiction for the review and approval thereof.

Section 13.11 Amendment. An application for an amendment to a special land use shall be reviewed and considered using the same procedures as an original special land use application, according to the provisions of this Chapter 13; provided, a minor site plan amendment according to Section 14.6 of this zoning ordinance shall not be considered an amendment to the special land use. The procedures for site plan review shall be followed for a minor amendment and a Section 13.5 public hearing shall not be required.

CHAPTER XIV
SITE PLAN REVIEW

Section 14.1 Site Plan Review. The Planning Commission may require the submission of site plans, drawings, renderings and such other information as will assist the Planning Commission in its review or approval of a proposed land use or activity.

- (a) Site plan review and approval by the Planning Commission in accordance with the provisions of this chapter shall be required for all uses in the AG, R-1, R-2, R-3, R-4, C-1, C-2 and I-1 Districts except single family dwellings and two family dwellings.
- (b) **Site Plan Content.** A site plan shall include all of the following information and, if required by the Planning Commission, it shall be prepared by and shall bear the seal of a registered professional engineer:
 - (1) A plot plan based on an accurate land survey showing:
 - (i) Location, size and type of present buildings or structures to be retained or removed.
 - (ii) Location of all proposed buildings, structures or other improvements.
 - (iii) Location of existing and proposed streets, drives and parking lots.
 - (iv) Location of water and sewer lines.
 - (v) Storm drainage.
 - (vi) Refuse and service areas.
 - (vii) Utilities with reference to location, availability and compatibility.
 - (viii) Screening and buffering with reference to type, dimensions and character.
 - (ix) Ground cover and other pertinent physical features of the site such as trees.
 - (x) Proposed landscaping.
 - (xi) Location of existing improvements.
 - (xii) Location of lot lines.
 - (xiii) Exterior lighting and signs.

- (xiv) Access for emergency vehicles.
- (2) Gross areas of buildings and parking.
- (3) Additional information as may be requested by the Planning Commission which is reasonably necessary to evaluate the site plan. The Planning Commission shall have the discretion to waive the inclusion in the site plan of any of the information required by this section.

Section 14.2 Standards of Review. The Planning Commission shall approve a site plan if it determines that the plan complies with the requirements of this Ordinance; that the proposed project promotes the intent and purposes of the Ordinance; that the proposed project will be compatible with adjacent uses of land, the natural environment and the capacities of public services and facilities affected by the proposed project; and that the proposed project will be consistent with the public health, safety and welfare.

Section 14.3 Conditions of Review. The Planning Commission may impose reasonable conditions on the approval of a site plan. The conditions may include, but are not limited to, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- (a) Be designed to protect natural resources, the health, safety and welfare and the social and economic welfare of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
- (b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- (c) Be necessary to meet the intent and purpose of this Ordinance, be related to the standards established in this Ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.

The conditions imposed with respect to the approval of a site plan shall be recorded in the record of the approval action, and shall remain unchanged except under mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed. The record of such conditions shall be set forth in the minutes of the meetings of the Planning Commission. A copy of all minutes of the Commission shall be furnished to the secretary of the Village Council.

Section 14.4 Review Procedure. A minimum of three (3) copies of a site plan shall first be submitted to the Village Building Inspector. Upon determining that the proposed use complies with the Zoning Ordinance, the Building Code and other pertinent codes and ordinances, the

Building Inspector shall cause the site plan to be placed on the agenda of a meeting of the Planning Commission.

Section 14.5 Appeal. If any person shall be aggrieved by the action of the Planning Commission with regard to site plan review, such person may appeal in writing to the Village Council within seven (7) days after the date of such action. The Village Council shall establish the time and place for a public hearing and shall provide notice of the public hearing in the manner provided in Section 19.7 of the zoning ordinance. All parties in interest shall be afforded the opportunity to be heard at the public hearing. Following the public hearing, the Village Council shall affirm, modify or reverse the action of the Planning Commission with regard to site plan review, or shall remand the appeal to the Planning Commission for reconsideration. In all decisions on appeal, the Village Council shall state its findings and reasons for its action, and a written copy thereof shall be given to the applicant and the Planning Commission.

Section 14.6 Amendments to the Approved Site Plan. Amendments to an approved site plan shall be permitted only under the following circumstances:

- (a) The holder of an approved site plan shall notify the Zoning Administrator of any proposed amendment to an approved site plan.
- (b) Minor changes may be approved by the Zoning Administrator upon determining that the proposed revisions will not alter the basic design or any specified conditions imposed as part of the original approval. The Zoning Administrator may, in his or her sole discretion, request that an amendment be referred to the Planning Commission for consideration. The following items shall be considered as minor changes:
 - (1) Change in the building size, up to 5 percent in total floor area.
 - (2) Movement of buildings or other structures by no more than ten feet.
 - (3) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
 - (4) Changes in building materials to a comparable or higher quality.
 - (5) Changes in floor plans which do not alter the character of the use.
 - (6) Changes required or requested by the Village, the Kent County Road Commission, or other county, state, or federal regulatory agency in order to conform to other laws or regulations.
 - (7) Changes required or requested by the Village for safety reasons.
 - (8) Internal rearrangement of a parking area which does not affect the number of parking spaces or alter access locations or design.

- (9) Changes which will preserve the natural features of the site without changing the basic site layout.
 - (10) Moving of ingress and egress drives a distance of not more than 100 feet if required by the County Road Commission.
 - (11) Changing to an equally restricted or more restricted use, provided there is no reduction in the amount of off-street parking.
 - (12) Other similar changes of a minor nature which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site, and which the Zoning Administrator determines would not have a significant adverse effect upon the subject lands, or upon adjacent or nearby lands or the public interest. As to such similar changes, or any minor change which is submitted to the Zoning Administrator for approval, the Zoning Administrator may refer such request for a change to the Planning Commission for a decision, regardless of whether the proposed change qualifies or does not qualify as a minor change, in which case the Planning Commission shall make the decision on the requested change.
- (c) A proposed amendment not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application.

CHAPTER XV

SIGNS IN ALL DISTRICTS

Section 15.1 Intent of Regulation. These sign regulations are intended to protect the health, safety and welfare of the general public, promoting and balancing public and private interests. Signs inform, direct, advertise and communicate information, but must do so in a manner that does not unduly detract from the community or the safety of the traveling public. The sign regulations are intended to further the following objectives:

- (a) **Aesthetics.** Protect and further the public health, safety and welfare; maintain and improve the Village's appearance and preserve community character.
- (b) **Traffic Safety.** Minimize traffic hazards and distractions; provide safer conditions, including information and direction for the traveling public and for pedestrians.
- (c) **Promote Businesses.** Promote economic development and commercial activity.
- (d) **Foster Free Speech.** Preserve and respect the right of free speech.
- (e) **Business Identification.** Allow for adequate and effective signage for business identification and other commercial speech, non-commercial speech and distribution of public information.

Section 15.2 Definitions.

Abandoned Sign. A sign which no longer identifies or advertises a bona fide business, owner, landlord, person, service, product or activity, or for which no legal owner can be found. A sign shall be considered an abandoned sign if the owner has failed to secure a permit as required by this Ordinance, or where the owner has failed to respond to notices issued under this Ordinance.

Address Sign. A sign which identifies the street address of a property with numbers or letters no greater than six (6) inches for residences and no greater than eighteen (18) inches for a business or other non-commercial use.

Alteration. As used in this chapter, the term "alteration" (or "alter," "altered" etc.) means any change in a sign, including, without limitation, any change in a sign's dimensions, shape, area, height, number or orientation of sign faces, structural support, location on the property, materials or lighting; provided, however, a change solely in the wording of the copy of a sign shall not constitute an "alteration" for purposes of this chapter, unless the result of the change would cause the sign to be reclassified to a type of sign subject to different or more restrictive regulation.

Awning or Canopy. A retractable or fixed shelter on a supporting framework, constructed of fabric, plastic or other non-rigid materials, projecting from and supported by the exterior wall of a building.

Balloon Sign. A sign composed of a non-porous structure filled with gas or supported by air.

Billboard or Off-Premises Sign. A sign which advertises an establishment, service, merchandise, use, entertainment, activity, product or message which is not available, or is only available on a basis that is incidental to the principal activity conducted or maintained on the lot or parcel on which the sign is located. A billboard includes a billboard structure.

Community Special Event Sign. A portable temporary sign not exceeding four (4) square feet in area erected for the purpose of calling attention to non-commercial special events of interest to the general public which are sponsored by governmental agencies, schools or other non-profit groups whose purpose is of a public, charitable, philanthropic, religious or benevolent nature.

Construction Sign. A sign less than twelve (12) square feet in area which identifies the owners, lenders, contractors, architects, and engineers of a project under construction, as well as the project itself.

Copy. The wording, numbering or lettering on a sign surface in either permanent or removable letter or number form.

Device Sign. A permanent sign on vending machines, gas pumps, ice containers and similar equipment or fixtures indicating only the contents of such device, provided that the sign area of each sign shall not exceed three square feet in area, and shall be limited to one sign per vending machine, gas pump, ice container or other similar equipment.

Directional Sign. A sign which gives directions, instructions, or facility information for the movement of vehicles or pedestrians on the lot on which the sign is located, such as parking or exit and entrance signs. A directional sign shall not exceed four (4) square feet in area and shall be set back at least five (5) feet from the street right-of-way line and the edge of all driveways. It shall bear no advertising matter other than a logo, trademark or identifying name of the business or entity subject to such directional sign.

Flags. Flags or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising device.

Freestanding Sign. A sign not attached to a building or wall which is supported by one or more poles or braces or rests on the ground or on a foundation resting on the ground.

Garage or Estate Sale Sign. A temporary sign not exceeding four (4) square feet in area erected to advertise the resale of personal property belonging to the resident. This

definition includes signs for garage sales, estate sales, rummage sales, yard sales or other similar casual sale of property.

Gateway Sign. A freestanding sign identifying, in the case of a residential district, a residential development or development of multiple dwelling buildings, and in the case of a commercial development or an industrial park, the name of the business center or industrial park. In the case of an industrial or commercial center, the gateway sign may include the names of the individual businesses or land uses within the development or park, subject to the regulations contained in this Ordinance. In the case of a planned unit development, a gateway sign shall comply with the requirements for a residential development, or for the requirements of a commercial or industrial development, as applicable. If the PUD is a mixed use development, the names of the individual businesses or land uses within the development or park may be listed on the gateway sign.

Ground Sign. A freestanding sign which is not attached to a building or wall and which rests on the ground or on a foundation resting on the ground, the bottom of which sign is no more than 24 inches above the finished grade.

Governmental and Essential Service Sign. A sign erected or required to be erected by the Village of Caledonia, Caledonia Township, Kent County, or the state or federal government, traffic and highway signs and signs denoting utility lines, airports or railroads.

Historic Markers. A plaque, marker or sign made of cast iron or similar durable material commemorating a historic person or event or identifying a historic place, structure or object.

Human or Animal Signs. A sign for commercial purposes that is held, supported, carried or worn by a person or animal, including the wearing of a sandwich board or other message.

Name Plate Sign. A non-electric on premise sign not exceeding four (4) square feet in area, giving only the name, address, and/or occupation of a tenant, occupant or group of occupants.

Nonconforming Sign. A sign which was legally erected prior to this Ordinance, but which does not conform to this Ordinance.

Placard. A sign not exceeding two (2) square feet which provides notices of a public nature, including warnings and safety messages, such as “no trespassing” or “no hunting.”

Pole or Pylon Sign. A freestanding sign, the bottom of which is more than 24 inches above the finished grade, and which is supported by a structure, poles, or braces which are less than 50 percent of the width of the sign.

Political Sign. A temporary sign used in connection with a non-commercial message or a governmental election or referendum.

Portable Sign. A sign that is not permanent or affixed to a building or structure or which by its nature may be or is intended to be moved from one location or another, whether rented or owned, such as “A” frame signs or signs attached to or painted on vehicles parked and visible from the public right-of-way, unless the vehicle is used for vehicular purposes in the normal day-to-day operations of the business operating at the location where the vehicle is parked.

Projecting Sign. A double-faced sign attached to a building or wall that extends in a perpendicular manner more than 12 inches, but not more than 36 inches, from the face of the building or wall.

Public Utility Signs. Signs of a non-commercial nature erected by public utilities with respect to services, products, warnings or other information regarding the utility.

Real Estate Sign. A non-illuminated sign that advertises the real estate upon which the sign is located as being for sale, rent or lease, provided the real estate sign does not exceed four (4) square feet in area for single or two-family residences or eight (8) square feet for commercial, industrial and other residential properties (including undeveloped land).

Roof Sign. A sign erected upon a roof. A sign erected upon a mansard roof or other roof with a pitch greater than twelve (12) feet shall be considered to be a wall sign.

Sandwich Board. A sandwich board is a self-supporting, freestanding temporary sign with two (2) faces, sometimes hinged at the top, with no moving parts or lights, displayed outside of a business, during business hours, to advertise the business, hours of operation, an event or a promotion (excluding real estate signage). A sandwich board may be no greater than six (6) square feet in area.

Sign. A device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any business, establishment, person, entity, product, service or activity, or to communicate information of any kind to the public.

Temporary Sign. A sign, flag, banner, balloon, feather sign, flutter sign, inflatables, figure, pennant or valance, usually constructed of cloth, canvas, light fabric, plastic, mylar, cardboard, wallboard or other light materials, with or without frames, or any other sign, other than a portable sign, that is not permanently secured and is not intended or designed for permanent use.

Temporary Window Sign. A window sign that is used only temporarily and is not permanently mounted. A sign which is intended to be or is in place for more than one (1) year is not a temporary sign.

Vehicle Sign. A sign affixed, painted or drawn on a vehicle or trailer, the primary purpose of which is to advertise or identify an establishment, product, service or activity, rather than merely to identify the vehicle or trailer while it is being used for transport, delivery or similar purpose, but excluding a sign on a licensed vehicle or trailer being parked overnight or otherwise being parked for a time of short duration and associated with the use of the vehicle or trailer for travel, transport, delivery or the like.

Wall Sign. A sign painted or attached directly to and parallel to the exterior wall of a building, which does not extend more than 12 inches from the exterior face of the wall to which it is attached.

Window Sign. A sign installed inside a window intended to be viewed from the outside, which complies with the following requirements:

- (1) Temporary window signs or displays are permitted provided that the signs or displays shall not cover more than thirty percent (30%) of the total window or door surface.
- (2) Permanent window signs or displays shall be limited to fifteen (15%) percent of the total window surface.
- (3) One address sign, containing only the street address, is permitted in the window of each tenant in a building that has more than one tenant. The address sign shall not exceed one (1) square foot in area. The address sign shall not be included in the calculation of permitted area for window signs.

Section 15.3 Permit Required; Exemptions. A sign shall not be erected, altered, placed or permitted to be placed or replaced within the Village without first obtaining a sign permit, except that if the following signs comply with applicable definitions and restrictions contained in this chapter, such signs shall be exempt from the requirement to obtain a sign permit. All signs, including the following exempt signs, shall comply with the general sign provisions of Section 15.4:

- (a) Address signs.
- (b) Community special event signs.
- (c) Construction signs.
- (d) Device Signs.
- (e) Directional signs.
- (f) Public utility signs.
- (g) Flags.

- (h) Garage sale and estate sale signs.
- (i) Historic markers.
- (j) Name plate signs.
- (k) Placard signs.
- (l) Political signs.
- (m) Real estate signs.
- (n) Governmental and traffic control signs.
- (o) Window signs.

Section 15.4 General Sign Provisions. The following regulations are applicable to all signs in all zoning districts, including exempt signs.

(a) **Sign Structure and Placement.**

- (1) **Wind and Weather Resistant.** Signs shall be constructed to withstand all wind and vibration forces which can normally be expected to occur.
- (2) **Not in Public Right-of-Way.** Signs shall not be placed in, upon or over any public right-of-way, alley, or other place, except as may be otherwise permitted by the Kent County Road Commission or Michigan Department of Transportation. Signs placed in the right-of-way in violation of this ordinance shall be deemed to be an abandoned sign and a safety hazard, subject to immediate removal and disposal by the Village.
- (3) **Not on Utility Pole.** A light pole, utility pole or other supporting member shall not be used for the placement of any sign, except as may be specifically permitted by this chapter.
- (4) **Not a Traffic Distraction.** A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
- (5) **Not Above Roofline.** A wall sign, including signs erected on a mansard roof, shall not extend past the edge of the wall to which it is affixed nor shall any such sign extend above the roof line of a building.
- (6) **Within Lot Lines.** A sign and its supporting mechanism shall not extend beyond or above any lot lines of the property on which it is located.

- (7) **Off-Premises and Portable Signs.** All signs shall be stationary, anchored and shall pertain only to the business or activity conducted on the premises, except for directional signs, community special event signs and billboards. No directional sign, community special event sign or billboard shall be placed on an off-premises property without the written consent of the property owner.
 - (8) **Changeable Copy Signs.** All wall and freestanding signs may include changeable message displays within the maximum size limits permitted for the sign; provided the message is static and is not changed more frequently than permitted by the applicable district sign regulations.
 - (9) **Maintenance.** Signs and their supporting foundations shall be cleaned and maintained in good repair, and shall be clearly legible, not faded.
- (b) **Measurement of Sign Area.** No sign shall exceed the maximum sign area allowed for the district in which it is located. The sign area is to be expressed in square feet, computed to the nearest tenth of a square foot, and shall be calculated as follows:
- (1) **Area.** The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
 - (2) **Double-faced Sign.** The area of a freestanding, ground or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two faces are placed back-to-back and are no more than two feet apart at any point, the area of one face shall be counted toward the maximum size requirement. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
 - (3) **Wall Sign.** For a sign consisting of individual letters and/or a logo affixed directly onto a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
 - (4) **Height.** The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.

- (5) **Multiple Tenant Buildings.** For buildings with multiple tenants, the sign area for wall, projecting, canopy or awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing the sign requirements for that portion of the total wall.

(c) **Illumination and Movement.**

- (1) Unless otherwise provided, signs may be illuminated internally or externally. If externally illuminated, the source of the light shall be enclosed and directed to prevent light from shining directly onto traffic or neighboring property. Beacon lights and search lights shall not be permitted.
- (2) Flashing, moving, oscillating, blinking, or variable intensity light shall not be permitted. Electronic message boards or changeable copy signs in which the copy consists of an array of light are permitted provided the frequency of message change is not less than two (2) seconds. All lights in a display shall activate simultaneously, remain activated for not less than two (2) seconds, and deactivate simultaneously; provided, however, sign copy may be refreshed by text that appears or disappears through travel, scroll, fade or dissolved transitions if the visual impact is not to give the appearance of flashing, animation or other sudden movement likely to be unduly distracting to traveling motorists, and provided that each message on the sign, including the copy, must be displayed for a minimum of two (2) seconds. No sign shall have blinking, flashing or fluttering lights or other illuminated devices, such as changing light intensity, brightness or color.
- (3) A sign shall not contain any moving or animated parts, nor have the appearance of having moving or animated parts, except for time and temperature signs and barber pole signs.

Section 15.5 Prohibited Signs. The following signs are prohibited within the Village.

- (a) Any sign not specifically permitted by this Ordinance.
- (b) Billboards and off-premises signs, except community special event signs and billboards as permitted by this chapter.
- (c) Vehicle signs.
- (d) Human or Animal signs.
- (e) Roof signs.
- (f) Flag, banner and balloon signs, except when specifically allowed by this chapter.

- (g) Portable signs/temporary signs/flashing signs, unless specifically permitted by this Ordinance.
 - (1) Portable signs, as defined, and including but not limited to “A-Frame”, “H-Frame” or similar non-anchored wire signs, signs with wheels, changeable letters, hitches for towing, temporary signs, balloon signs and banners are prohibited in the C-1, C-2 and I-1 Districts, except where specifically allowed in this chapter.
 - (2) Portable signs, as defined, and including but not limited to signs with wheels, changeable letters, hitches for towing, may only be permitted in the AG, R-1, R-2, R-3 and R-4 Districts. Where permitted, a portable sign may be displayed for a duration not to exceed thirty (30) days in any calendar year and shall not be erected unless a permit therefore has been issued by the Building Inspector.
- (h) External neon signs other than in the C-1, C-2 and I-1 Districts, and if specifically permitted in a PUD District, a neon sign on which the wording specifically states “Open,” “Vacancy,” or “No Vacancy” shall be permitted. These specific signs shall be no larger than two (2) square feet.

Section 15.6 District Regulations. Each sign for which a permit is required shall also comply with the following regulations:

- (a) **Residential Districts.** Signs in the AG Agricultural District, the R-1 Low Density Single Family District, the R-2 Medium Density Single Family District, the R-3 Medium Density Multiple Family District, and the R-4 High Density Multiple Family District shall be permitted only in accordance with the following provisions and other applicable provisions of this Ordinance:
 - (1) There may be one ground sign or wall sign for a non-residential use, not exceeding six (6) square feet in area on each lot or parcel of land or exceeding eight (8) feet in height above the grade.
 - (2) In the R-3 and R-4 Districts, there may be more than one sign on each lot or parcel, but the total area of signs on any lot of parcel of land shall not exceed 32 square feet.
 - (3) A residential development, apartment complex, PUD or other unified multiple dwelling residential project may have a gateway sign on each street frontage, not exceeding two signs for each development. The gateway sign shall not exceed 48 square feet in area or six feet in height and shall be set back no closer than fifteen feet from the right of way line. and from all lot lines.

- (4) One home occupation sign per principal dwelling may be permitted. It shall be wall mounted on the front of the dwelling, with no illumination, and shall not exceed four (4) square feet in size.
- (b) **Commercial Districts.** Signs in the C-1 Neighborhood Business District and the C-2 Highway Business District shall be permitted only in accordance with this section and other applicable provisions of this Ordinance.
- (1) Signs in the C-1 District shall not exceed 80 square feet in area per sign and shall not exceed 160 square feet in total area of all signs (not including signs exempt from permitting requirements) per lot or parcel of land.
 - (2) Signs in the C-2 District shall not exceed 100 square feet in area per sign and shall not exceed 200 square feet in total area of all signs (not including signs exempt from permitting requirements) per lot or parcel of land.
 - (3) Signs in the C-1 District shall not exceed a height of 12 feet.
 - (4) Signs in the C-2 District shall not exceed a height of 18 feet.
 - (5) A wall sign or projecting sign shall not exceed 30 square feet in area.
 - (6) A sandwich board sign may be permitted only if the Planning Commission authorizes the sign after it determines that there is adequate room for placement of the sandwich board on the sidewalk adjacent to the building without causing an interruption or hazard for pedestrian traffic.
 - (7) Except as specifically provided above, signs in the C-1 and C-2 Districts shall only be ground signs, and shall not exceed six (6) feet in height and 60 square feet in size.
- (c) **I-1 Light Industrial District.** Signs in the I-1 Light Industrial District shall be permitted only in accordance with this section and other applicable provisions of this Ordinance.
- (1) Signs in the I-1 District shall not exceed 80 square feet in area per sign and shall not exceed 160 square feet in total area of all signs (not including signs exempt from permitting requirements) per lot or parcel of land.
 - (2) Signs in the I-1 District shall not exceed a height of 12 feet.
 - (3) A wall sign or projecting sign shall not exceed 30 square feet in area.
 - (4) Except as specifically provided above, signs in the I-1 District shall only be ground signs, and shall not exceed six (6) feet in height and 60 square feet in size.

Section 15.7 Signs for Special Land Uses and Planned Unit Development District Uses.

- (a) Signs in and for special land uses shall be permitted only in accordance with the district regulations for the applicable special land use unless the Planning Commission specifically approves, as part of the special land use procedures under Chapter XIII, additional or different signage provisions.
- (b) Signs in and for the PUD District shall be permitted only in accordance with the district regulations for the PUD District unless otherwise approved by the Planning Commission and the Village Council as part of the PUD District approving ordinance.

Section 15.8 Modifications by Planning Commission. The Planning Commission may modify the sign regulations contained in this chapter, with respect to an increase in the height, number or area of signs, or other modification of the requirements contained in this chapter, where the purposes of this chapter will nevertheless be achieved by the modified provisions. In approving such modifications, the Planning Commission shall consider the following criteria:

- (a) **Standards for Modification.**
 - (1) The modification shall be compatible with adjacent existing and future land uses and shall not be injurious to the use and enjoyment of nearby property.
 - (2) The modification shall improve and not impede emergency vehicle or personnel access, traffic or pedestrian circulation.
 - (3) The modification shall be necessary because of topography, natural features, visual obstructions or other unusual aspects of the site.
 - (4) The modification shall not result in traffic or safety hazards, shall not result in visual clutter or distraction, and shall not otherwise result in a detriment to the public health, safety and welfare.
- (b) **Requests for Modification.** When requesting any modifications from the provisions of this chapter, the applicant shall provide the Planning Commission with a written statement of justification, indicating the site conditions that warrant the requested modifications and specifying how the modifications would nevertheless carry out the basic intent and purposes of this chapter.

Section 15.9 Billboards. Billboard signs may only be located on lands abutting a primary highway, as provided by the Highway Advertising Act (MCL 252.301, et seq.) and shall be limited to areas within the C-2 Highway Business District and within commercial and industrial Planned Unit Developments. Billboard signs shall further comply with the following provisions:

- (a) Within the C-2 District, billboard signs shall be limited to sixty-four (64) square feet in area and eighteen (18) feet of height unless approved by the Planning

Commission as a special use under Chapter XIII. Approval by the Planning Commission as a special use shall also be required if a billboard sign will cause the total square footage of all signs on an individual lot or parcel to exceed one hundred fifty (150) square feet (ref. Section 15.3(c)). Whether by special use or Planned Unit Development, no billboard shall exceed a maximum of two hundred (200) square feet of area or thirty (30) feet of height. If within a Planned Unit Development, each billboard must be specifically approved as part of the original Planned Unit Development or by a subsequent amendment thereto (ref. Section 15.4(c) and (d)).

- (b) Not more than two (2) billboards may be located per linear mile of highway within the Village and each billboard sign shall be separated from adjacent billboard signs abutting either side of the highway by a distance of at least one thousand two hundred (1,200) feet. This spacing requirement shall apply even though signs along an opposing side of the highway may be in another governmental jurisdiction. The linear mile measurement shall begin and end at the Village boundaries.
- (c) Two parallel or distinct sign faces on one structure facing the same direction (with one face being above or beside the other) shall be considered one billboard and shall be subject to the size restrictions of this section. Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures having only one face visible to street traffic proceeding from a given direction shall be considered as one billboard. Only the area of the largest face of a double faced or V-type billboard will be used in calculating sign area.
- (d) A billboard may be illuminated, provided the illumination is concentrated on the surface of the sign and is located to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. In no event shall a billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate, oscillate, move or cause the visual effect of motion.
- (e) No part of a billboard sign, its framing or its supportive structure shall be located closer than twenty-five (25) feet from an adjoining street right-of-way or a property line.

Section 15.10 Nonconforming Signs and Signs Accessory to Nonconforming Uses.

- (a) **Continuance.** Notwithstanding any other provision of this chapter to the contrary, a permanent sign which was erected legally and which lawfully exists at the time of the enactment of this Amendment, but which does not conform to the height, size, area, location or other requirements of this chapter, is deemed to be nonconforming and may continue to be used subsequent to that time, as provided by this section.

- (b) **Alteration/Repair.** Nonconforming signs shall not be altered, expanded, enlarged, extended, or repaired, without being brought into full compliance with all applicable regulations under this chapter, except as expressly provided by this subsection.
- (1) A nonconforming sign may be diminished in size or dimension without jeopardizing the privilege of nonconforming use. As with conforming signs, a change solely in the wording of the copy of a nonconforming sign shall not constitute an alteration for purposes of this chapter, unless the result of the change would cause the sign to be reclassified to a type of sign subject to different or more restrictive regulation.
 - (2) Routine repair to maintain a nonconforming sign in a safe and aesthetic condition exactly as it existed at the time of the enactment of this chapter and so as to continue the useful life of the sign shall not constitute an alteration for purposes of this chapter, unless the estimated cost of repair exceeds fifty (50%) percent of the appraised replacement cost of the entire sign prior to the repair, as determined by the Village. If the estimated cost of repair exceeds fifty (50%) percent of that appraised replacement cost, the right to continue using the nonconforming sign shall thereupon terminate and the sign must be brought into full compliance with all applicable provisions and requirements of this chapter prior to further use.
 - (3) In no event shall the alteration of a nonconforming sign result in an increase in the nature or degree of any aspect of the sign's nonconformity.
- (c) **Signs Accessory to Nonconforming Uses.** A sign related to a nonconforming use may be erected in the Village in accordance with the sign regulations for the zoning district in which the property is located.
- (d) **Damage or Destruction.** If a nonconforming sign is damaged or destroyed by fire, explosion, flood, wind or other calamity, the sign may be restored to the condition exactly as it existed immediately prior to the damage or destruction, unless the estimated cost of restoration or replacement exceeds 50% of the appraised replacement cost of the entire sign prior to the loss, as determined by the Village. If the estimated cost of restoration or replacement exceeds 50% of that appraised replacement cost, the right to continue using the nonconforming sign shall thereupon terminate and the sign shall be brought into full compliance with all applicable provisions and requirements of this chapter prior to further use.
- (e) **Abandoned Signs.** Any sign which the Village determines to be abandoned shall be removed by the owner. If the owner does not remove the sign, or if no owner can be found, the Village may remove and dispose of the sign. If the sign is removed by the Village and the owner is known, the Village shall have the right to recover from the owner of the sign the full costs of removing and disposing of

the sign. Signs in the public right-of-way shall be subject to immediate removal by the Village.

- (f) **Portable and Temporary Signs.** Portable and temporary signs that are nonconforming shall be altered to comply with the provisions of this chapter or they shall be removed within ninety (90) days after the effective date of this section.

**CHAPTER XVI
PARKING AND LOADING**

Section 16.1 Parking Space Requirement. In all zoning districts, there shall be provided before any building or structure is occupied or enlarged or increased in capacity, off-street parking spaces for motor vehicles as follows:

Use	Minimum Number of Spaces Per Unit of Measure
(a) Residential Uses.	
(1) One or Two family	2 for each dwelling unit
(2) Multiple Family	2 for each dwelling unit
(3) Group day care homes and group foster care homes	1 for each 4 residents plus 1 for each employee
(4) Mobile home parks	2 for each mobile home lot
(b) Institutional Uses.	
(1) Church	1 for each 4 seats in the main worship area
(2) Hospital and clinics	1 for each 2 patient beds plus 1 for each staff doctor plus 1 for each 2 employees
(3) Homes for the elderly, nursing homes, sanitariums, convalescent homes	1 for each 4 beds, plus 1 for each staff doctor, plus 1 for each 2 employees
(4) Elementary School	2 for each 3 employees
(5) Senior high school, middle school and institution of higher learning	2 for each 3 employees in or about the building plus 1 for each 4 students
(6) Child day care centers	1 per employee plus 1 for each 10 children

- (7) Private clubs and lodges 1 for each 3 members permitted by maximum occupancy under building code with minimum of 1 space for each 100 sq. ft. of floor area
- (8) Theaters, auditoriums, and stadiums (including those in or associated with public or private schools) 2 for each 5 seats plus 2 for each 3 employees
- (9) Community center 1 for each 100 sq. ft. of assembly floor area
- (10) Libraries, museums, and post offices 1 for each 400 sq. ft. of floor area
- (11) Swimming pool clubs, tennis clubs and similar uses 1 for each 2 members plus 1 for each 3 employees

(c) Business and Commercial Uses.

- (1) Retail stores (except as otherwise specified herein) 1 for each 200 sq. ft. of floor area
- (2) Lodging, rooming and boarding houses 2 for each 3 guest rooms or 2 for each 6 beds for guests, whichever amount is greater
- (3) Hotels/motels 1 for each guest room, plus 1 for each employee, plus 1 for each 100 sq. ft. of dining room or meeting room
- (4) Bowling alleys 6 for each alley
- (5) Restaurants (without drive-in facilities) and taverns 1 for each 100 sq. ft. of usable floor area or 1 space for each 2 persons allowed within maximum occupancy load under building code, whichever amount is greater
- (6) Restaurants with drive-in or drive-through facilities 1 for each 100 sq. ft. of usable floor area or 1.5 space for each person allowed within maximum occupancy load under building code, whichever amount is greater

(7)	Mortuaries or funeral homes	1 for each 50 sq. ft. of floor area used for services
(8)	Personal service establishments (not otherwise listed)	1 for each 300 sq. ft. of usable floor area plus 1 for each 2 employees
(9)	Vehicle service stations	1 for each service stall, plus 1 for each pump island plus 1 for each maximum number of employees at any one time
(10)	Vehicle wash (self service)	1 for each 5 stalls
(11)	Vehicle wash (automatic)	1 for each employee
(12)	Barber/beauty hop	3 for each chair
(d) Offices.		
(1)	Banks, and other financial institutions	1 for each 200 sq. ft. of usable floor area
(2)	Professional offices and buildings, except medical and dental.	1 for each 300 sq. ft. of usable floor area
(3)	Medical office or dental clinic	6 for each doctor plus 1 for each employee
(4)	Business offices not otherwise listed	1 for each 300 sq. ft. of usable floor area
(e) Industrial Uses.		
(1)	Manufacturing, processing, fabricating and research establishments	1 for each 1000 sq. ft. of floor area plus 1 for each 300 sq. ft. for offices
(2)	Warehouses and storage buildings	1 for each 2000 sq. ft. of floor area plus 1 per 300 sq. ft. for offices

Section 16.2 Joint Use of Facilities. Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total parking space requirement is the sum of the maximum individual parking requirements.

Section 16.3 Location of Facilities. Off-street parking facilities shall be located as hereafter specified. When a distance is specified, it shall be the distance measured from the nearest point of the parking facility to nearest normal entrance to the building or use that such parking facility serves.

- (a) For all residential buildings and for all non-residential buildings and uses in residential zoning districts, required parking shall be provided on the lot where the building or use is located.
- (b) For commercial and all non-residential buildings and uses in commercial and industrial zoning districts, required parking shall be provided within three hundred (300) feet of the building or use.

Section 16.4 Size of Parking Space and Aisle. Off-street parking spaces shall be designed and constructed in accordance with the minimum standards for parking spaces and aisles in various parking patterns as contained in the following Table and Figure.

Table 16.1

Parking Pattern	Parallel	Up to 53 Degrees	54-74 Degrees	75-90 Degrees
Maneuvering Lane Width				
1-Way	13 ft.	13 ft.	15 ft.	16 ft.
2-Way	20 ft.	22 ft.	22 ft.	24 ft.
Parking Space Width*	8.5 ft.	9 ft.	9 ft.	9 ft.
Parking Space Length**	22 ft.	18 ft.	18 ft.	18 ft.
Total Width of 2 tiers of Parking, plus lane				
1- Way	30 ft.	49 ft.	51 ft.	52 ft.
2- Way	37 ft.	58 ft.	58 ft.	60 ft.

* Measured perpendicular to the longitudinal space centerline

**Measured along the longitudinal space centerline

Section 16.5 Requirements for Parking Areas. Every parcel of land hereafter established as an off-street public or private parking area for more than five (5) vehicles, including a municipal parking lot, commercial parking lot, automotive sales and/or service lot, the accessory parking areas for multiple dwellings, businesses, public assembly and institutions, shall be developed and maintained in accordance with the following requirements:

- (a) The parking lot and its driveways shall be effectively screened on each side which adjoins or faces premises situated in any R Zoning District, with a greenbelt ten (10) feet in width landscaped with lawn and low shrubbery clumps backed up by a solid planting of evergreen trees at least five (5) feet in height and five (5) feet wide after one growing season, or other suitable screening device. The Planning Commission may permit an artificial wall or fence in lieu of the landscape buffer, upon determination that the parcel size and configuration are such that a provision of minimum landscape buffered areas is impractical to the overall development of the site. Such walls or fences shall be of wood, brick or other similar material, whichever is most compatible with the buildings and structures adjacent to and/or

on the site in question. The height of the wall or fence shall be at least thirty-six (36) inches but not more than seventy-two (72) inches.

- (b) The parking lot and its driveway shall be designed to provide adequate drainage; surfaced with concrete or asphalt pavement; and maintained in good condition, free of dust, trash and debris. To reduce the amount of impervious surface and the corresponding storm water runoff as well as improve parking lot aesthetics, the Planning Commission may approve alternate parking lot surfaces for overflow parking, employee parking or other specialized parking or service areas. Such alternate parking lot surfaces may include but not be limited to gravel, crushed stone, or products which are installed in the ground to support a vehicle but allow grass to grow within the supporting spaces.
- (c) The parking lot and its driveways shall not be used for the repair, dismantling, or servicing of any vehicles, or the storage of abandoned or dismantled vehicles.
- (d) The parking lot shall be provided with entrances and exits so designed and located as to minimize traffic congestion.
- (e) Lighting facilities shall be arranged as to minimize light spilling onto adjoining properties. Lighting shall be provided in accordance with the lighting provisions of this chapter.
- (f) No part of any public or private parking area regardless of the number of spaces provided, shall be closer than ten (10) feet to a street right-of-way. The setback area shall be planted and maintained as a permanent lawn or landscaped area.
- (g) Each parking area shall have appropriate maneuvering room and reserve space to insure that snow removal or snow storage will not significantly reduce the parking lot capacity or negatively impact the adjacent street or adjoining properties.

Section 16.6 Miscellaneous Off-Street Parking Requirements.

- (a) Off-street parking existing at the effective date of this Ordinance which serves an existing building or use, shall not be reduced in size to less than that required under the terms of this Ordinance.
- (b) When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, the fraction shall be considered one full required space.
- (c) The off-street parking requirement for all land uses not specifically mentioned in this chapter shall be the off street parking requirement for the land use specifically mentioned which is most similar in parking demand to that of the use not specifically mentioned. The off-street parking requirement for mixed uses in the same building shall be the amount of parking space required for each use therein.

- (d) Floor area shall mean the gross floor area of all floors of a building as defined in Section 2.2 of this Ordinance.

Section 16.7 Off-Street Loading Spaces. For every building or addition to an existing building hereafter erected to be occupied by storage, display of goods, retail store or block of stores, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other similar uses requiring the receipt or distribution of vehicles of materials or merchandise, there shall be provided and maintained on the same lot with such building or addition:

- (a) An area or means adequate for maneuvering of delivery vehicles and ingress and egress for delivery vehicles; and
- (b) Off-street loading spaces in relation to floor areas as follows:
 - (1) Up to twenty thousand (20,000) square feet of floor area: one (1) parking space;
 - (2) Twenty thousand (20,000) square feet or more but less than fifty thousand (50,000) square feet or fraction thereof of floor area: two (2) parking spaces.
 - (3) One (1) additional parking space for each additional fifty thousand (50,000) square feet of floor area or fraction thereof.

Each such loading space shall be at least ten (10) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height. No such space shall be located closer than fifty (50) feet to any lot or parcel of land in any R Zoning District.

Section 16.8 Internal Access Drives.

- (a) The traveled surface (exclusive of shoulders) of two way drives providing access within development sites but which are not lined with parking spaces shall be a minimum of twenty-one (21) feet in width. The traveled surface of one-way internal access drives which are not lined with parking spaces shall be a minimum of twelve (12) feet in width.
- (b) No access drive or lane shall be located closer than twenty-four (24) inches from an obstruction such as a light pole, hydrant, utility riser or HVAC unit or five (5) feet from a building or wall structure.

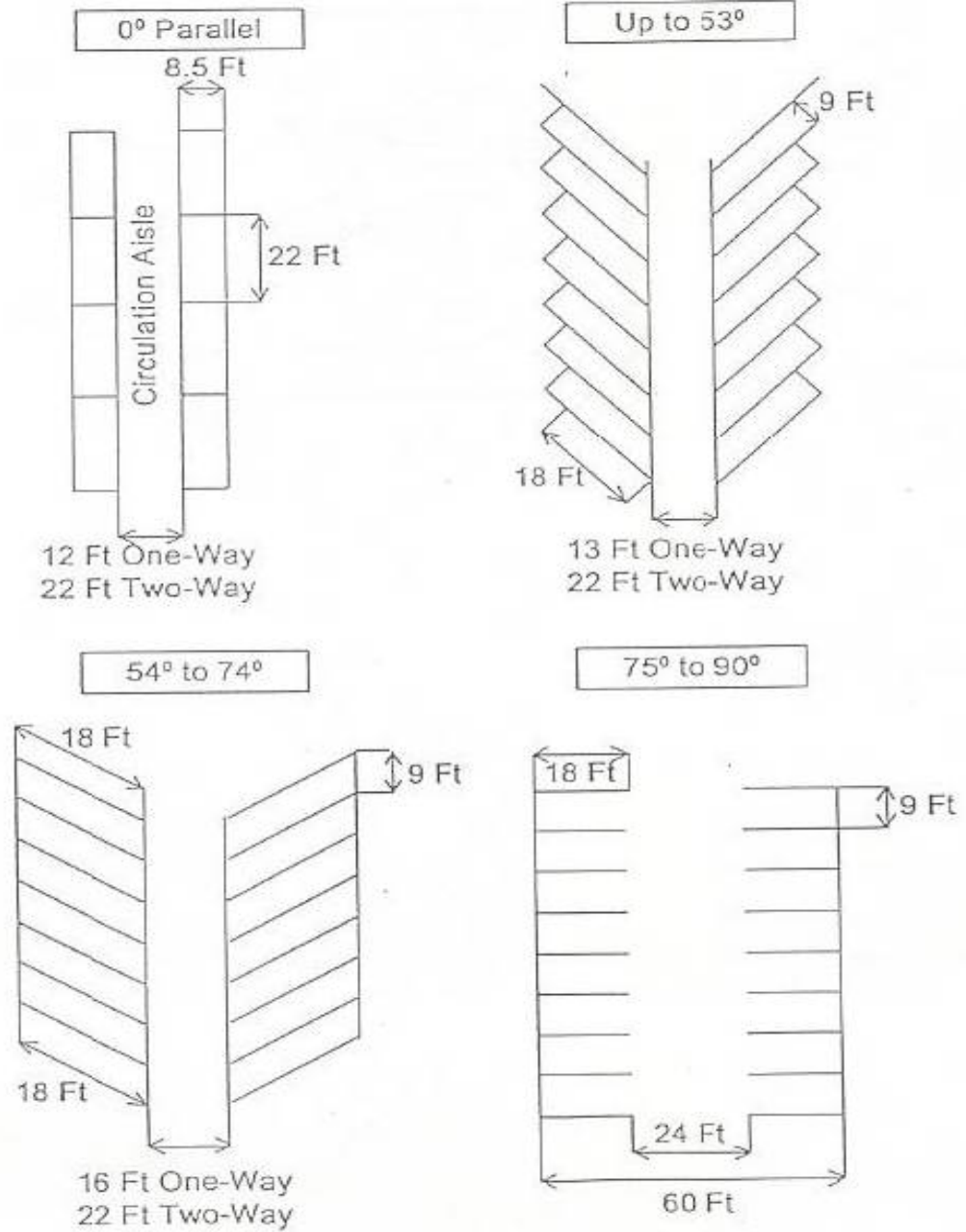
Section 16.9 Deferred Parking Construction. In order to avoid excessive amount of impervious surface, the Planning Commission may approve a development which provides less than the minimum number of parking spaces required herein if the applicant demonstrates to the satisfaction of the Planning Commission that a reduced amount of total parking space will meet the projected parking needs of the project, after consideration of the following:

- (a) The nature, size, density, location, or design of the proposed development, including the design of the circulation and parking plan;
- (b) The availability of vacant or otherwise undeveloped land on the same parcel as shown on the proposed development plan, will remain available to provide additional off-street parking space if additional parking space is subsequently determined to be necessary by the Village Planning Commission to meet the parking needs of the development;
- (c) Characteristics of the development which will affect the parking needs, including factors such as non-conflicting peak hours of operation and the sharing of spaces by different uses; and
- (d) Any other factors reasonably related to the need for parking for the proposed development.

The deferred parking area and configuration of the future parking area and drives shall be shown on the site plan. Alterations to the use of lands designated for the deferred parking areas shall require an amendment to the site plan.

Figure 16-1

Minimum Parking Space and Aisle Requirements

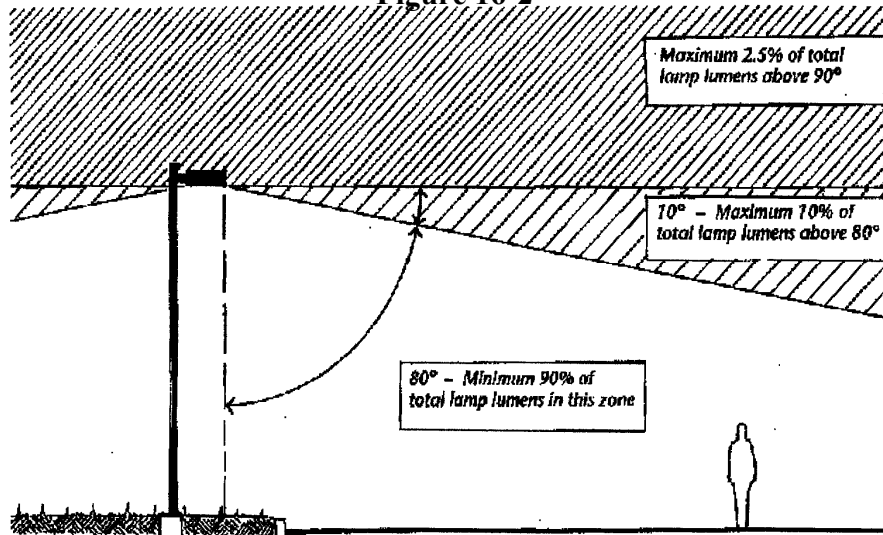


Section 16.10 Definitions.

- (a) **Average Illumination Levels.** The overall average of all points on the surface of the illuminated area including the brightest and the dimmest points.
- (b) **Cut-Off-Angle.** The angle between the vertical axis of a luminaire and the first line of sight (of a luminaire) at which the light source is no longer visible.
- (c) **Cut-off Fixtures.** Cut-off fixtures control glare by directing light well below the horizon, out of the viewer's line of sight.
- (d) **Floodlight.** A light fixture designed to light a scene or object to a level greater than its surroundings. The beam of floodlights may range from narrow field angles of ten (10) degrees to wide angles (more than 100 degrees).
- (e) **Flush Mounted or Recessed Luminaire.** A luminaire that is mounted above a ceiling (or behind a wall or other surface) with the opening of the luminaire level with the surface.
- (f) **Foot-candle.** A measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away. Foot-candle may be measured both horizontally and vertically by a light meter.
- (g) **Glare.** The condition that results from insufficiently shielded light sources or areas of excessive light within the field of view.
- (h) **Luminaire.** A complete lighting unit, often referred to as a fixture.
- (i) **Lumen.** A measure of light energy generated by a light source. Manufacturers list lumen ratings for all their lamps. Average lumen levels are slightly lower than initial lumen ratings.
- (j) **Maximum to Minimum Illumination Ratio.** The ratio of the maximum illumination level to the minimum level.
- (k) **Mounting Height.** The vertical distance between the surface to be illuminated and the bottom of the light source.
- (l) **Uniformity Ratio.** The ratio of average illumination to minimum illumination.

Section 16.11 Outdoor Light Fixtures, General. All outdoor fixtures, including building mounted fixtures, shall be full cut off fixtures as defined in this chapter. The level of light spilling onto adjacent properties or roads shall not exceed 0.1 foot candles.

Figure 16-2



Section 16.12 Parking Lot Lighting. Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort and not to cause glare or direct illumination onto adjacent properties or streets.

- (a) Mounting heights of standard cut off fixtures shall not exceed thirty (30) feet.
- (b) Mounting heights of fixtures that are located within one hundred fifty (150) feet of a residential use or district shall not exceed twenty (20) feet.
- (c) Average horizontal illumination levels shall be no greater than 2.4 foot candles. There shall be a maximum to minimum illumination level ratio throughout the site of no greater than 10:1 and an average to minimum uniformity ratio not to exceed 4:1.
- (d) Average horizontal illumination levels within thirty (30) feet of building entrances shall be no greater than 4.0 foot candles with a maximum to minimum ratio no greater than 10:1 and an average to minimum uniformity ratio not to exceed 4:1.

Section 16.13 Security Lighting. The purpose of and need for security lighting (lighting which is supplemental to the lighting needed to illuminate storefront, parking and pedestrian areas) must be demonstrated to the Planning Commission as part of site plan approval.

All security fixtures shall be shielded and aimed so that illumination is directed only to designated areas and not cast onto other areas. In no case shall lighting be directed above a horizontal plane through the top of the lighting fixture and the fixture shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways. The use of general floodlighting fixtures is prohibited.

Section 16.14 Illumination of Building Facades. When buildings and structures are to be illuminated, the Planning Commission shall approve a design for the illumination and the following shall apply:

- (a) Lighting fixtures shall be located, aimed and shielded so that light is directed only onto the building façade. Lighting fixtures shall not be directed toward adjacent streets, roads, or properties.
- (b) The illumination of landscaping, monuments or flags shall not direct light beyond the feature being illuminated.

Section 16.15 Lighting of Gasoline Stations/Convenience Store Aprons and Canopies.

- (a) Areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas set forth in Section 16.12. If no gasoline pumps are provided, the entire apron shall be treated as a parking area.
- (b) Areas around the pump islands and under canopies shall be illuminated so that the horizontal average at grade level is no more than 22 foot candles with a maximum to minimum ratio no greater than 10:1 and an average to minimum uniformity ratio not to exceed 4:1.
- (c) Light fixtures mounted under canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained to no more than eight-five (85) degrees from vertical.
- (d) **Gas Pump Canopy.** Indirect lighting may be used where light is beamed upward and then reflected down from the underside of the canopy. Light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy. Lights shall not be mounted on the top or sides (fascias) of the canopy.

CHAPTER XVII
NONCONFORMING USES, BUILDINGS OR STRUCTURES

Section 17.1 Intent and Purpose. The intent and purpose of this chapter is to provide regulations concerning land uses, buildings and structures which were lawful prior to the adoption of this Ordinance, or prior to any relevant amendment thereof.

Under the terms of this chapter, land uses, buildings and structures which were lawful at the time of the adoption of this Ordinance or of any amendment thereto, may continue, even though such land use, building or structure does not conform with the provisions of this Ordinance or any amendment thereto.

Section 17.2 Nonconforming Uses.

- (a) If, on the date of adoption of this Ordinance or on the date of adoption of any relevant amendment thereto, a lawful use of a lot or a parcel of land was occurring, but such use is not permitted under the terms of this Ordinance or under the terms of any relevant amendment, such use may continue so long as it is otherwise lawful.
- (b) A nonconforming use shall not be enlarged, expanded or increased so as to increase or enlarge the nature or extent of the nonconformity, provided, however, that the Board of Appeals may in certain circumstances grant a special exception for the continuance, expansion or enlargement of a lawful nonconforming residential use in the commercial districts and the office district, as stated in Section 17.3.
- (c) A nonconforming use shall not be changed to another nonconforming use, except that the Board of Zoning Appeals, after public hearing, may approve a change to another nonconforming use, if the Board determines that the proposed other nonconforming use will be more conforming than the nonconforming use then existing. In granting any such approval, the Board of Appeals may impose reasonable terms and conditions on the proposed use.
- (d) A nonconforming use shall not be re-established after it has been changed to a conforming use.
- (e) A nonconforming use shall not be re-established after it has been discontinued for nine (9) consecutive months.

Section 17.3 Nonconforming Buildings and Structures.

- (a) If, on the date of adoption of this Ordinance, or on the date of adoption of any amendment thereto, a lawful building or structure exists, but the building or structure is no longer permitted under the terms of this Ordinance or under the terms of any relevant amendment, such building or structure may continue so long as it remains otherwise lawful.

- (b) A nonconforming building or structure may be maintained, repaired or restored to a safe condition, so long as such action does not increase the extent of the nonconformity; provided, however, that a nonconforming single family dwelling may be enlarged or expanded to the extent permitted in subsection (c) of this section.
- (c) A nonconforming building or structure shall not be enlarged, expanded or increased so as to increase or enlarge the nature or extent of the nonconformity, except as follows:
 - (1) An unenclosed porch or an unenclosed deck of a single family dwelling that is nonconforming because it does not comply with the minimum required front yard building setback may nevertheless be expanded or enlarged, or such an unenclosed porch or such an unenclosed deck may nevertheless be constructed, established and used; provided, however, that the front yard building setback of such unenclosed porch or such unenclosed deck shall not be less than the smallest front yard building setback of all of the lawfully nonconforming dwellings within the same block and on the same side of the street, except that if any such front yard building setback is less than twenty (20) feet, it shall be deemed to be a front yard building setback of twenty (20) feet, in which case the front yard building setback of the unenclosed porch or the unenclosed deck referred to in this subsection may be twenty (20) feet, but may not be less than that number; and
 - (2) A single family dwelling that is lawfully nonconforming because its front yard building setback is less than that required by this Ordinance, but is at least fifty percent (50%) of the minimum required front yard building setback, may be expanded along the dimension of the building that is generally parallel to the street at the front of the dwelling, so long as no part of the front yard building setback is further reduced and so long as no part of the dwelling encroaches into any required minimum side yard building setback.
- (d) A nonconforming building or structure shall not be re-established after it has been changed to a conforming building or structure.
- (e) A nonconforming building or structure shall not be re-established in its nonconforming condition after damage or destruction by fire or natural disaster if the replacement cost of the nonconforming building or structure exceeds fifty percent (50%) of the fair market value of the building or structure prior to such damage or destruction; provided, however, that the Board of Zoning Appeals may approve the re-establishment of such nonconforming building or structure, after a public hearing, but only to the extent necessary to provide a reasonable use of the building or structure. In considering the approval of any such re-establishment of

a nonconforming building or structure, the Board of Appeals may impose reasonable terms and conditions.

Section 17.4 Nonconforming Lots of Record.

- (a) Where a single, nonconforming lot or parcel of record in existence on the effective date of this Ordinance does not contain land to permit compliance with the requirements of this Ordinance relating to lot area, lot width, or both, such lot or parcel of record may nevertheless be used as a building site; provided, however, that the minimum side yard building setback shall, if less than that required by the zoning district in which the lot is located, be at least ten percent (10%) of the lot width, but if such percent cannot be achieved, each side yard shall in any event be not less than five feet wide.
- (b) If two or more lots, or a combination of lots or portions of lots, are located adjacent to each other and are at any time held in common ownership, and if all or part of such lots do not satisfy the minimum requirements for a buildable lot in the zoning district in which they are located, then all of such lots shall automatically be combined for zoning purposes into one conforming lot, or one lot that is more nearly conforming than the individual lots. If the lots, as combined, continue to be nonconforming, they shall be considered, as combined, as a single nonconforming lot for purposes of Section 17.4(a).
- (c) Lots combined for zoning purposes under Section 17.4(b) shall not thereafter be split, re-divided or otherwise reduced in area unless all of the resulting lots comply with the minimum lot area requirement for a buildable lot in the district in which the land is located, or unless a lot is divided and also legally combined with an adjacent lot or lots; provided, however, in the case of a platted lot being divided and also legally combined with an adjacent lot or lots, such division shall be subject to all applicable rules, laws and ordinances governing the division of lands.

CHAPTER XVIII
ZONING BOARD OF APPEALS

Section 18.1 Board of Zoning Appeals.

- (a) The Board of Zoning Appeals is hereby created. Pursuant to Section 601(2) of the Michigan Zoning Enabling Act, the Village Council may elect to act as the Board of Zoning Appeals and may establish rules to govern its procedure as a Board of Zoning Appeals.

If the Village Council does not make such an election, then the rules of this Section 18.1 shall govern the Board of Zoning Appeals. The rules of this section pertaining to conflicts of interest shall apply, whether or not the Village Council has elected to act as a Board of Zoning Appeals.

If the Village Council does not elect to act as the Board of Zoning Appeals, such Board shall consist of five members, and may consist of two alternates, appointed by the Village Council. Regular and alternate members shall be registered electors of the Village, provided that no elected officials of the Village, nor any employee of the Village, may serve as a member of the board except as provided herein. One of the regular members of the Board shall be a member of the Village Planning Commission. One regular member may be a member of the Village Council, but that member shall not serve as chairperson of the Board of Zoning Appeals. The Board shall elect one of its members as chairperson and one of its members as secretary.

- (b) **Officers.** The Board shall elect one of its members as chairperson and one of its members as secretary.
- (c) **Term of Office.** Initially, one member of the Board shall be appointed for a term of three years, two members shall be appointed for a term of two years each, and two members shall be appointed for a term of one year each. Thereafter, each member, when appointed, shall have a term of three years. Alternates shall be appointed for three year terms. The terms of office for members serving because of their membership on the Village Planning Commission or Village Council shall correspond with those respective bodies.
- (d) **Voting.** A member of the Board of Zoning Appeals who also serves as a Planning Commission member or as a Village Council member is prohibited from participating in or voting on matters previously voted on in his or her capacity as a Planning Commission member or Village Council member.
- (e) **Alternate Members.** An alternate member of the Board may be called to serve if the regular member is unable to attend or has abstained for reasons of conflict of interest. An alternate member appointed in a case shall serve in that case until a final decision is made. An alternate member shall vote and otherwise have all of

the authority and responsibility of a regular member, but shall not be eligible to serve as an officer.

- (f) **Removal.** Members of the Board may be removed by the Village Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- (g) **Vacancy.** Any vacancy on the Board shall be filled by the Village Council for the remainder of the unexpired term in the same manner as the original appointment.

Section 18.2 Voting Requirements. The concurring vote of a majority of the members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or Zoning Administrator, to decide in favor of the applicant on any matter upon which the Board is required to pass under this chapter or under the Michigan Zoning Enabling Act, or to grant any variance in the Zoning Ordinance as provided in this chapter; provided, however, the use variance as specified in this chapter shall require no less than the concurring vote of two-thirds of the members of the Board of Appeals.

Section 18.3 Meetings and Quorum. Meetings of the Board of Zoning Appeals shall be open to the public and shall be at the call of the Chairperson and at such other times as the Board shall specify in its rules of procedure. No less than a majority of the regular members of the Board of Appeals must be present to constitute a quorum for the conduct of business.

Section 18.4 Records. The secretary shall record minutes of all proceedings of the Board of Appeals which shall contain evidence and data relevant to every case considered, together with a tabulation of the vote of each member and the final disposition of each case. Such minutes shall be a public record.

Section 18.5 Hearings. When a notice of appeal has been filed in proper form with the Board of Zoning Appeals, the secretary shall immediately place such request for appeal on the calendar for hearing and shall cause notice to be provided in the manner specified in Section 19.7 of the zoning ordinance. The Board of Zoning Appeals may recess such hearing from time to time, and if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice thereof shall be required.

Section 18.6 Appeals. Appeals to the Board of Appeals may be taken by any person aggrieved, or by an officer, department or board of the Village.

Section 18.7 Time for Appeal; Notice. Any appeal from the ruling of the Building Inspector concerning the enforcement of the provisions of this Ordinance shall be made to the Board within such time as shall be prescribed by the Board by general rule. The person making the appeal shall file with the secretary of the Board and the enforcing officer a notice of appeal specifying the grounds for the appeal. The Building Inspector shall immediately transmit to the

secretary of the Board all the papers constituting the record upon which the action appealed from was taken.

Section 18.8 Effect of Appeal. An appeal stays all proceedings in furtherance of the action appealed from unless the Building Inspector shall certify to the Board, after notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or on application and notice to the Building Inspector, by the circuit court of due cause shown.

Section 18.9 Representation. Any party may appear in person or by agent or by attorney at a hearing considering his request or appeal.

Section 18.10 Duties and Powers of the Board of Appeals. The Zoning Board of Appeals shall have all of the powers and duties prescribed by law and by this chapter, including the following:

- (a) The Board of Zoning Appeals shall hear and decide questions that arise in the administration of the Zoning Ordinance, including interpretation of the zoning map of the Village of Caledonia, and determinations of the exact location of any district boundary if there is any uncertainty with respect thereto.
- (b) The Board of Zoning Appeals shall hear and decide on matters referred to it for decision under the terms of this Zoning Ordinance.
- (c) The Board of Zoning Appeals shall hear and decide appeals from and shall review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of this Zoning Ordinance, but shall not have jurisdiction to hear an appeal from any aspect or part of a determination or decision made with regard to a special land use or planned unit development or any requirements contained in a special land use or planned unit development. The Zoning Board of Appeals shall not consider variances from the requirements of any special land use or planned unit development, nor make any change in the terms thereof.

Section 18.11 Variances. No variance in the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board makes findings, based upon competent material and substantial evidence on the whole record, as to each of the following matters. As to a dimensional variance, being a variance regarding the dimensional characteristics of a lot, parcel or property or a variance because of exceptional topographic or other conditions of the land, buildings or structures, the Board must make findings as to each of the following matters based on no less than three concurring votes. As to the use variance, being a variance from the provisions or requirements of this Ordinance because of the actual or proposed use of the property requested by the applicant, no less than four concurring members of the Board of Appeals must find that based on competent material and substantial evidence on the whole record all of the following exist:

- (a) That the enforcement of the literal requirements of this Ordinance would cause unnecessary hardship, as to a use variance, or practical difficulties, as to a dimensional variance.
- (b) That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (c) That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.
- (d) That the authorizing of such variance will not be of substantial detriment to adjacent or nearby lands, structures or buildings, and will not be contrary to the spirit and purpose of this Ordinance.
- (e) That the special circumstances or conditions referred to in subsection (b) do not result from the actions of the applicant.

Section 18.12 Decisions. The Board of Appeals may reverse or affirm wholly or in part, or may modify, any order, requirement, decision or determination on which any appeal has been taken, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of an appropriate and lawful permit. The Board of Appeals shall also make findings and reach decisions upon all other matters which, under the terms of this Ordinance or by law, it is required to herein decide. In its minutes, the Board shall state the reasons and grounds for each of its decisions or determinations. The decision of the Board shall be final, but any person having an interest affected by any such decision may appeal to the circuit court. An appeal from a decision of the Board of Appeals shall be filed within 30 days after the Board of Appeals issues its decision in writing signed by the chairperson, if there is then a chairperson, or signed by another member of the Board of Appeals, if there is then no chairperson, or within 21 days after the Board of Appeals approves the minutes of the meeting at which its decision was taken, whichever is first to occur.

Section 18.13 Expiration of Variances. Each variance granted under the provisions of this chapter shall automatically expire one year from the date granted unless:

- (a) The construction authorized by such variance or permit has been commenced within one year after the granting of the variance and is progressing toward completion.
- (b) The occupancy of land, premises or buildings authorized by the variance has taken place within one year after the variance was granted.

CHAPTER XIX
ADMINISTRATION AND ENFORCEMENT

Section 19.1 Zoning Administration. The provisions of this Ordinance shall be administered and enforced by the Building Inspector.

Section 19.2 Building Inspector. The Building Inspector shall be appointed by the Village Council for such term and subject to such conditions and at such rate of compensation as the Village Council shall determine. To be eligible for appointment to the post of Building Inspector, the applicant must be: (1) generally informed of the provisions of this Ordinance; (2) have a general knowledge of the building arts and trades; and (3) be in good health and physically capable of fulfilling the duties of the Building Inspector. Said applicant shall have no interest whatsoever, directly or indirectly, in the sale or manufacture of any material, process, facility or device entering into, or used in connection with, building construction.

Section 19.3 Permits. No building or structure shall be erected, moved, placed, reconstructed, extended, enlarged or altered except following the issuance of a permit therefor, as provided by the terms of the Village Building Code.

In the case of a mobile home located within a mobile home park, a permit for the erection, movement, placement, reconstruction, extension, enlargement or alteration of a mobile home may be issued if such mobile home meets or exceeds all applicable federal and state safety and construction standards, including but not limited to The Federal Mobile Home Construction and Safety Standards Act, 24 CFR § 3280.1, *et seq*, and as the same may be amended from time to time.

Application for any such permit shall state the name and address of the owner and contractor, the address or description of the premises, and the value of the improvements. The application shall be accompanied by a plot plan and such plans and specifications as shall be necessary to determine that the requirements of this Ordinance and of any other applicable laws or ordinances will be fully complied with.

Section 19.4 Certificate of Occupancy. No building or structure which is erected, moved, placed, reconstructed, extended, enlarged or altered shall be used in whole or in part until the owner thereof shall have been issued a certificate of use and occupancy as provided by the terms of the Building Code of the Village of Caledonia. No such certificate of use and occupancy shall be issued unless all of the provisions of this Ordinance have been complied with by the owner of the building or structure as to which such certificate is sought.

Section 19.5 Expiration of Building Permits. A permit for a single family dwelling for which all construction work has not been completed within one year from the date of its issuance shall expire automatically; a permit for any other building or structure for which all construction work has not been completed within two years from the date of issuance shall expire automatically. A permit expiring automatically pursuant to this section shall, upon reapplication, be renewable once for additional terms of one and two years, respectively (one year for single family dwelling; two years for any other building or structure), upon payment of an additional fee equal to one half of the original permit fee.

Section 19.6 Cancellation of Permits. The Building Inspector shall have power to revoke and cancel any permit in the event of failure or neglect to comply with all of the terms and provisions of this Ordinance or in the event of any false statement or misrepresentation in the application for the permit. Notice of such cancellation and revocation shall be securely posted on the constructed site, such posting to constitute service of notice upon the permit holder as to the cancellation and revocation of the permit.

Section 19.7 Publication and Delivery of Notice of Public Hearing. Except as stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, as amended, notice of the public hearing shall be published and delivered in accordance with the requirements of this section.

- (a) The notice shall be published once, at least 15 days before the date of the public hearing, in a newspaper of general circulation in the Village.
- (b) For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel of land; for all planned unit development and special land use applications; and for other zoning applications as to which a public hearing is required, a notice of public hearing shall be personally delivered or shall be mailed by first-class U.S. mail to the following persons, at least 15 days before the date of the public hearing:
 - (1) The applicant; the owner of the subject property, if different from the applicant.
 - (2) All persons to whom real property is assessed for property taxes within 300 feet of the property that is the subject of the application.
 - (3) One occupant of each dwelling unit in each building that contains four or fewer dwelling units and is located within 300 feet of the subject property.
 - (4) The owner or manager of a building containing more than four dwelling units, who shall be requested in writing to post the notice at the primary entrance of the building, but failure of such posting shall not constitute lack of notice to the owners or occupants of such dwelling units.
 - (5) If the above-described 300-foot radius extends outside the Village's boundaries, the notice shall nevertheless be provided outside of the Village's boundaries, within the 300-foot radius, to all persons stated above in this subsection.
- (c) The notice of public hearing shall include the following information:
 - (1) A description of the application or request.
 - (2) An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses

within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.

- (3) The date and time when the application or request will be considered; the location of the public hearing.
- (4) The location or address where written comments concerning the application or request will be received; the period of time within which such written comments may be submitted.

Section 19.8 Application Fees and Other Charges; Zoning Escrow Deposits and Payments.

- (a) All applicants for requests, approvals or reviews by the Board of Appeals, Planning Commission, Village Council or other reviewing authority of the Village, including the rezoning of lands, special land uses, site plan approval, site condominium approvals, variances, permits, special exception approvals and other land use reviews, or other approvals provided for by the terms of this Ordinance, shall pay to the Village all required application fees and other fees or charges established by Village Council resolution. Applicants shall also deposit sums into an escrow account as provided by resolution of the Village Council, and such deposited sums shall be used for reimbursement of Village expenses with respect to zoning and land use approvals or other relief being applied for, in accordance with the terms of the zoning ordinance and any applicable Village Council resolution.
- (b) An application for any of the above-stated land use reviews, approvals, and other applications authorized hereunder, shall not be considered complete, and need not be considered by the applicable reviewing body, until the required application fee and other charges have been paid in full and until the deposit of all required sums in any required escrow account has taken place, and such deposit maintained or re-established at the required amount as directed by the Village.
- (c) Failure to pay all required fees and escrow amounts owing shall be a violation of this zoning ordinance. All appropriate remedies, including enforcement of this violation as a municipal civil infraction, shall be available to the Village.

Section 19.9 Violations and Penalties.

- (a) Any use of land which is commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, raised, extended, enlarged, altered, maintained or changed, in violation of any provision of this Ordinance is hereby declared to be a nuisance per se. Any person who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Building

Official, Zoning Administrator, Board of Zoning Appeals, Planning Commission or the Village Council issued pursuant to this Ordinance shall be in violation of this Ordinance. Any such violation is hereby declared to be a nuisance per se.

- (b) A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100, nor more than \$500 for the first offense, and not less than \$250, nor more than \$1,000 for subsequent offenses, in the discretion of the court, and in addition to other costs, damages, attorneys' fees and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day during which any violation continues shall be deemed a separate offense.
- (c) In addition to the foregoing penalties, the Village may seek injunctive relief against persons alleged to be in violation of this Ordinance, and such other relief as may be provided by law.
- (d) The following Village officials are authorized to issue citations for violation of the provisions of this Ordinance which are designated to be municipal civil infractions, if they have reasonable cause to believe that an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed the infraction:
 - (1) the Village President;
 - (2) the Village Manager;
 - (3) the Village Building Official and/or Zoning Administrator; and
 - (4) the Village ordinance enforcement officer.
- (e) If a citation is based solely upon the complaint of someone who allegedly witnessed the violation, and not upon the personal observation of the official, then the citation shall be approved in writing by the Village President and the Village attorney.
- (f) Citations shall be numbered consecutively and shall be in a form approved by the State Court Administrator's Office.
- (g) Citations shall be served upon the alleged violator as provided by law.
- (h) Citations shall require an appearance at the district court within a reasonable time after the citation has been issued.

- (i) The procedures for the admission or denial of responsibility, request for informal or formal hearings, and all matters related to processing of citations for civil infractions shall be as provided by law.

Section 19.10 Stop Work Orders.

- (a) **Notice to Owner.** Upon notice from the Village President, Village Manager, Zoning Administrator or Building Official that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing, shall be posted on the property involved and shall be sent by first-class U.S. mail to the owner of the property involved, at the owner's last address or as that address is shown in the current Village property tax assessment roll.
- (b) **Unlawful Continuation of Work.** Any person who shall continue to work in or about the structure, land or building or use it after a stop work order has been posted on the land or at the site shall be in violation of this Ordinance, except such work as such person may be directed to perform in order to moderate or remove a violation.

CHAPTER XX AMENDMENTS

Section 20.1 Initiation of Amendments. Amendments to this Ordinance may be initiated by the Village Council or Planning Commission by resolution or by any interested person or persons by petition to the Village Council.

Section 20.2 Amendment Petition Procedure. All petitions for amendments to this Ordinance shall be in writing, signed, and filed in triplicate with the Village Clerk for presentation to the Village Council. Such petitions shall include the following:

- (a) The petitioner's name, address and interest in the petition, as well as the name, address and interest of every person having a legal or equitable interest in any land which is to be rezoned.
- (b) The nature and effect of the proposed amendment.
- (c) If the proposed amendment would require a change in the Zoning Map, a fully dimensioned map showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning district of the land, the zoning district of all abutting lands, and all public and private right-of-way and easements bounding and intersecting the land to be rezoned.
- (d) The alleged error, if any, in the Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same.
- (e) The changed or changing conditions in the area or in the Village that make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.
- (f) All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.

Section 20.3 Consideration of Proposed Amendment. A public hearing shall be conducted on a proposed amendment to this Ordinance, in accordance with the provisions of this section.

- (a) With respect to an amendment as to which the Planning Commission or Village Council determines to convene a public hearing, notice of the public hearing is to be given in accordance with Section 19.7 of this Ordinance.
- (b) The Planning Commission shall hold the public hearing as to any proposed amendment except, however, as provided in Section 12.8 of this Ordinance, the Village Council shall hold a public hearing as to planned unit developments, which hearing may be in lieu of the Planning Commission public hearing. The Commission, or as applicable, the Village Council, shall receive such public comment and review such reports and other materials as it deems appropriate in

the circumstances, may make non-material changes in a proposed amendment, in its discretion or in response to public comment or otherwise, and may freely correct typographical or other non-substantive errors.

Before material changes in the text of the proposed amendment are made, a new or supplemental public hearing shall be conducted on the amendment as it is proposed to be materially changed.

- (c) After its decision, the Planning Commission shall forward its decision and the proposed amendment to the Village Council with its recommendation for approval or denial.
- (d) Upon receipt of a zoning ordinance amendment recommendation from the Planning Commission, the Village Council shall consider the proposed amending ordinance at a public meeting. The Village Council may hold a public hearing on the amending ordinance if it determines to do so, but such a hearing is not required, except as provided in Section 12.8 of this Ordinance and as otherwise provided in this Section 20.3. If such a public hearing is held by the Village Council, notice thereof shall be given in the same manner as is required by the terms of this Ordinance for a Planning Commission public hearing on an ordinance to amend the text of this Ordinance or the Zoning Map. If it desires, the Village Council may refer any proposed amending ordinance to the Planning Commission for further consideration and comment within a time specified by the Village Council, but the Council is not required to do so.
- (e) If an interested property owner requests a hearing by the Village Council on a proposed Zoning Ordinance amendment, and if such request is in writing and is sent by certified U.S. mail, addressed to the Village Clerk, the Village Council shall convene such a hearing. In that case, written notice of the date, time, place and purpose of the hearing shall be given to the requesting property owner in the same manner and to the same extent that notice of a Planning Commission public hearing is given to an applicant, but no other notice of the Village Council hearing need be given by publication, U.S. mail or otherwise.
- (f) The Village Council may adopt the amending ordinance at any regular or special meeting, by affirmative majority vote of the members of the Village Council.
- (g) Except as otherwise provided by law, an ordinance to amend the Zoning Ordinance shall take effect upon the expiration of seven days after publication of the amending ordinance or seven days after publication of a summary of its provisions in a newspaper of general circulation in the Village, or at such later date after publication as may be specified in the amending ordinance.

The above-stated notice of adoption shall include the following information:

- (1) A summary of the regulatory effect of the amending ordinance, or the entire text of the amending ordinance; if the ordinance includes an amendment of the Zoning Map, the notice shall indicate the lands affected.
- (2) The effective date of the amending ordinance.
- (3) The location where and the time when a copy of the amending ordinance may be inspected or purchased.

**CHAPTER XXI
MISCELLANEOUS PROVISIONS**

Section 21.1 Administrative Liability. No officer, agent, employee, or member of the Planning Commission, Village Council, or Board of Appeals shall render himself personally liable for any damage that may accrue to any person as the result of any act, decision or other consequence or occurrence arising out of the discharge of his duties and responsibilities pursuant to this Ordinance.

Section 21.2 Reserved for Future Use.

Section 21.3 Procedure. Citations for violations of the Zoning Ordinance shall be issued, and processed in the manner provided in Chapter I of the Caledonia Code for municipal civil infractions. In addition to such civil infraction penalties, the Village Council, the Board of Appeals, the duly authorized attorney for the Village, or any owners or occupants of any real estate within the Village may institute injunction, mandamus, abatement, or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

Section 21.4 Severability. This Ordinance and the various parts, sections, subsections, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

Section 21.5 Repeal. This Ordinance repeals and replaces the Village of Caledonia Zoning Ordinance approved and adopted on January 13, 1975 and all amendments thereto. The Zoning Map that is a part of this Ordinance replaces the existing Zoning Map that was a part of such prior ordinance, and all changes to and amendments in said existing Zoning Map.

Section 21.6 Effective Date. This Ordinance shall become effective thirty (30) days after it is published, or thirty (30) days after a summary of its provisions is published, in a local newspaper of general circulation.

CHAPTER XXII
SITE CONDOMINIUM SUBDIVISIONS

Section 22.1 Purpose and Scope. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a “lot” for purposes of determining compliance with the requirements of the Zoning Ordinance and other applicable laws, ordinances, and regulations. Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project’s location, any land use permitted by the Caledonia Village Zoning Ordinance may be permitted in a site condominium project.

The purpose of this section is to ensure that plans for developments within Caledonia Village proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, shall be reviewed with the objective and intent of achieving the same or comparable essential characteristics achieved if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It is also the intent of this section to ensure that such development is in conformance with the requirements of this Zoning Ordinance, as amended, and other applicable Village Ordinances and state and federal regulations.

Section 22.2 Site Condominium Review and Approval Procedures. Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

- (a) **Conceptual Preliminary Review.** Prior to the formal application for a Site Condominium Subdivision, the developer may meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant’s intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the Village Clerk (or appropriate designee) who shall distribute it to all Planning Commissioners, the Village Manager, Village Planner, and Village Engineer:
 - (1) A sketch drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.
 - (2) A statement regarding the provision of sewer service and water supply.

During the preliminary discussion meeting, the Planning Commission, based on the information available to it, may inform the applicant about the following:

- (i) General requirements of this section and other applicable provisions of the Zoning Ordinance.
- (ii) Planned or anticipated sites of parks and recreation areas and other public uses.
- (iii) Utility system capabilities.
- (iv) Planned or anticipated public improvements, including streets, pedestrian and bikeways, utility extensions, and the like.
- (v) Street plans and potential problems relative to the natural features of the area including, but not limited to, flood plains, soil conditions, topography, and groundwater tables.
- (vi) Additional information which may assist the applicant in proceeding in a reasonable and sound manner toward final approval of the site condominium project.

Conceptual Preliminary Review is intended for information purposes only and does not constitute binding commitments on the part of the Village. Neither does it imply preliminary approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.

(b) **Agency Review.** Following conceptual preliminary review, the applicant is advised to submit their site condominium subdivision plans to the following agencies for their review and comment and, if required, their approval:

- (1) Kent County Drain Commissioner.
- (2) Michigan Department of Natural Resources and Environmental Quality.
- (3) Kent County Road Commission (Soil Erosion and Sedimentation Permits).
- (4) Michigan Department of Transportation (if applicable).
- (5) Gas and electrical utility corporations serving the area.
- (6) Caledonia Public Schools and Kent County Intermediate School District.
- (7) Other state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.

(c) **Preliminary Plan Review.**

- (1) **Submission Requirements.** Formal application for preliminary review of a site condominium subdivision project shall be made to the Village Clerk along with the appropriate fees as required by Village Council resolution. The application shall, at a minimum, contain the following information:
- (i) The applicant's name, address and phone number.
 - (ii) Proof that the applicant is the owner of the property or has a legal or financial interest in the property such as a purchase agreement.
 - (iii) The name, address and phone number(s) of the owner(s) of record if different than the applicant.
 - (iv) The legal description, address and tax parcel number(s) of the property.
 - (v) Project description, including number of structures, dwelling units, square feet of building sites (lots), open spaces and estimated inhabitants, phasing etc.
 - (vi) Gross size of the project in acres.
 - (vii) A certified list of state and county agencies responsible for review and approval of the project along with any written comments and/or preliminary or final approvals from the agencies.
 - (viii) A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
 - (ix) A copy of any preliminary agreements which may be required before Final Plan approval is granted.
 - (x) A copy of the proposed Master Deed of the project and the supportive information which is intended to be recorded with the Register of Deeds as required by state law.

The applicant shall provide at least ten (10) copies of the preliminary plan and additional copies if deemed necessary by the Clerk. The plans shall contain the information outlined in Section 22.4 and the application and plans shall be submitted at least twenty (20) days before the next regularly scheduled meeting of the Planning Commission. Upon receipt of the preliminary site condominium project plans, the Clerk shall forward one (1) copy to each member of the Planning Commission, Village Planner and Village Engineer.

- (2) **Planning Commission Review (Preliminary Plan).** In reviewing the Preliminary Plan, the Planning Commission shall give particular attention to the requirements of Section 22.4 contained herein. The Planning Commission shall also review all deed restrictions and covenants for the site condominium project for adequacy to ensure ultimate completion of the project in accordance to the proposed project plan. If the Preliminary Plan meets the requirements of this Ordinance and all other applicable local, county, state and federal regulations, the Planning Commission shall within sixty (60) days of the date of application recommend its Preliminary Approval. The Planning Commission shall forward one (1) copy of the Preliminary Plan along with a notation indicating its recommendation for Preliminary Approval and any other recommendations to the Village Council for review and approval.

If the plan does not meet the requirements of this Ordinance, the Planning Commission shall:

- (i) Recommend denial of the Preliminary Plan, setting forth the reasons in writing, or
- (ii) Recommend granting of Preliminary Plan approval contingent upon completion of the revisions as noted.

- (3) **Village Council Review and Approval (Preliminary Plan).** After receipt of the Preliminary Plan and recommendations from the Planning Commission, the Village Council shall consider the Preliminary Plan at its next meeting, or within thirty (30) days from the date of receipt from the Planning Commission.

- (i) The Village Council shall consider the Preliminary Plan along with the recommendations of the Planning Commission. If the plan meets the requirements of this Ordinance, the Council shall grant Preliminary Plan approval. The Village Clerk shall sign the plan with the notation that it has received preliminary approval and the applicant shall be so notified. Preliminary plan approval shall give the applicant the following rights for a two (2) year period from the date of approval:
 - (I) That the general terms and conditions under which preliminary approval was granted will not be changed by the Village.
 - (II) That the building site sizes, number and orientation, and street layout have been approved.
- (ii) If the Preliminary Plan substantially, but does not totally, meet the requirements of this Ordinance, the Village Council may grant

conditional approval of the Preliminary Plan. This approval shall be conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete the Preliminary Plan. Upon the submission of such changes, revisions, or additional material to the Village Council, the Preliminary Plan shall be granted unconditional approval and the applicant shall be so notified.

(iii) If the Preliminary Plan cannot meet the requirements of this Ordinance, the Village Council shall deny preliminary approval and shall notify the applicant along with the reasons for denial.

(4) **Effect of Preliminary Approval.** Approval of a Preliminary Site Condominium Subdivision project by the Village Council shall serve as conditional authorization to proceed with the project, including the sale of individual building sites on the basis of condominium ownership and the construction of required improvements to the land in conformity with approved project plans. Preliminary Site Condominium Subdivision approval shall not serve as the direct authorization for construction of buildings on individual building sites within the subdivision. Prior to building construction, individual uses shall be subject to the customary provisions of Chapter XIX, Administration and Enforcement and any general or special regulations applicable to the individual structure or use as outlined or referenced in the general or district regulations of this Zoning Ordinance.

(d) **Final Plan Approval.**

(1) Within two (2) years from the date of Preliminary Plan approval, the applicant shall prepare and submit the necessary copies of the Final Site Condominium Plan to The Village Clerk along with a completed application form and any fee established by the Village Council at least two (2) weeks prior to the next regularly scheduled Council meeting. The applicant must also submit the following:

(i) Two (2) copies of as-built plans of all required public improvements which shall be reviewed by The Village Engineer for compliance with applicable Village standards.

(ii) A copy of all final agreements and the Master Deed which is to be recorded with the Kent County Register of Deeds.

(iii) Letters of final approval from all applicable agencies and utilities having responsibility within the project stating that improvements have been properly installed and inspected, and inspection fees paid, or that performance guarantees or other similar surety have been submitted for uncompleted improvements.

- (2) If all submissions are found acceptable, the Clerk shall submit the same to the Village Council at its next regular meeting for approval.
- (3) The Council shall approve or reject said Final Plan based upon the Plans and other material submitted and the recommendation of the Village Engineer and notify the applicant in writing. Said notice may be a copy of the minutes of the meeting at which council took the action.
- (4) If the Final Plan is rejected, the Clerk shall notify the applicant stating the reasons for denial in writing. Said notice may be a copy of the minutes of the meeting at which council took the action.
- (5) All Village approved provisions of the Site Condominium Subdivision Plans must be incorporated, as approved, in the Master Deed for the condominium project. A copy of the Master Deed as filed with the Kent County Register of Deeds for recording must be provided to the Village Clerk within ten (10) days after such filing with the county.

Section 22.3 Financial Guarantee. In lieu of completion of all required public or private improvements prior to approval of the final plan, the Village Council may permit the developer to provide a financial guarantee of performance in one or a combination of the following arrangements. Completion of improvements shall be required prior to the issuance of occupancy and use permits for any dwelling or business establishment.

(a) **Cash Deposit, Certified Check, Irrevocable Letter of Credit.**

- (1) A cash deposit, certified check, or irrevocable letter of credit shall accrue to the respective public agency responsible for administering the construction, operation, or maintenance of the specific public improvement. These deposits shall be made with the treasurer of the respective unit of government of which the public agency is a part, or deposited with a responsible escrow agent, or trust company, subject to the approval of the respective governmental body.
- (2) The dollar value of the cash deposit, certified check, or irrevocable letter of credit shall be equal to the total estimated cost of construction of the specified public improvement.
- (3) The escrow time for the cash deposit, certified check, or irrevocable letter of credit shall be for a period to be specified by the Village.
- (4) In the case of either cash deposits or certified check, an agreement between the Village and the developer may provide for progressive payments out of the cash deposit or reduction of the certified check to the extent of the estimated cost of the completed portion of the public improvement in accordance with the standard practices of the public agency responsible for administering the specific public improvement.

- (b) **Penalty for Failure to Complete the Construction of a Required Improvement.** In the event the developer shall, in any case, fail to satisfactorily complete the required construction of a required improvement within such period of time as required by the conditions of the guarantee for the completion of public improvements, the Village Council may declare the developer to be in default and require that all the improvement(s) be installed regardless of the extent of the building development at the time the bond is declared to be in default. The Village Council may obtain sums necessary for the cost and expense of such installation by appropriating the amounts necessary to complete the project from the cash deposit, certified check, or irrevocable letter of credit. Nothing contained herein shall prohibit the Village from the pursuit of any other remedies which may be available for breach of agreement and/or for damages including requests for actual attorney fees and costs.

Section 22.4 Site Condominium Subdivision Plans.

- (a) **Required Content - Preliminary Plan.** The Preliminary Plan shall be drawn at a scale of not more than two hundred (200) feet to the inch and shall include or be accompanied by the following information:
- (1) The name of the project; the name and address of the developer; the name, address and seal of a registered surveyor or engineer preparing the Plan; and a legal description of the property to be subdivided.
 - (2) A map key showing the location and position of the property and its relationship to surrounding streets and the surrounding area including existing zoning of abutting areas.
 - (3) North arrow, scale, contour interval, and legend when appropriate.
 - (4) Contour elevations adjusted to USGS datum.
 - (5) Where appropriate, established flood plain contours and elevations adjusted to USGS datum.
 - (6) The location of all existing streets, lots, plats, public utilities, drains, streams or bodies of water on/or abutting the property.
 - (7) The lot lines, intended layout, and intended use of the entire property owned or represented by the developer, including future phases. The following shall be included:
 - (i) Street and stub street right-of-way – location, width and curve radii.
 - (ii) Proposed street names.

- (iii) Building site lines, site dimensions to the nearest foot, site and block numbers, and building site areas to the nearest ten (10) square feet.
 - (8) The location and dimensions of all existing or proposed easements or open space reserves, including electrical and telephone easements.
 - (9) The locations and proposed sizes of proposed sanitary sewers, storm sewers and catch basins, water mains, culverts, bridges, ponding areas, or lagoons.
 - (10) Statements regarding:
 - (i) Intent to utilize public or private water or sewage facilities.
 - (ii) Zoning and lot size requirements.
 - (iii) Zoning requirements for front, side and rear yards.
 - (iv) A summary of the total number of building sites, minimum and average building site sizes and the square footage of all limited and general common areas.
 - (v) Size and type of streets in accord with Village public and/or private street standards.
 - (vi) Intent to install gas, sidewalks, street lights, and shade trees.
 - (vii) Use of waterways, rivers, streams, creeks, lakes or ponds.
 - (11) The location of all general and limited common elements.
 - (12) The use and occupancy restrictions and maintenance provisions for all general and limited common elements as will be contained in the Master Deed.
- (b) **Required Content - Final Plan.** The Final Plan for a Site Condominium Subdivision shall include:
- (1) A written application and payment of review fee.
 - (2) Proof of ownership of the land included in the Final Plan in the form of a certified abstract of title or a policy of title insurance.
 - (3) One (1) set of approved as-built or final construction plans for all required improvements to be kept on file by the Village.
 - (4) One (1) copy of the final Master Deed intended for recording.

- (5) Performance or installation agreements for improvements, such as streets, sidewalks, street lights, or shade trees.
- (6) One (1) copy of any financing arrangements between the Village and the proprietor for the installation of required improvements, if any.

Section 22.5 Site Condominium Subdivision Layout, Design and Required Improvements.

- (a) **Conformity To Zoning.** All land uses and building sites within a site condominium subdivision project shall be subject to the requirements of the Village of Caledonia Zoning Ordinance for that zoning district in which it is located.
- (b) **Streets.** All site condominium subdivision lots shall be served by a public street system, a private street system, or a system that comprises a combination thereof. All streets shall be constructed in accordance with the Street Alignment and Layout and Street Design Standards for streets contained in the Village of Caledonia Subdivision Regulations, being Chapter XI of the Village Code, Article IV, Sections 11.20 and 11.21. All streets dedicated to the public shall be accepted by affirmative action of the Village council.

The following stipulations shall also apply to private streets within the development.

- (1) Private streets shall not interconnect with the public street network in a manner that will preclude the extension of public streets within areas where it is deemed by the Village that the extension of public streets is necessary to further the logical, orderly, and efficient development of the overall public street network. In making such determination, the Planning Commission and Village Council shall consider the circulation pattern and traffic volumes on nearby public streets, existing and proposed land use in the general area, the recommendations contained within the Caledonia Village Master Plan and master street or circulation plan, the street and highway plans of the Kent County Road Commission and Michigan Department of Transportation, and the street and land use plans of adjacent Townships, if applicable.
- (2) Any portion of a residential street which provides direct or indirect means of access to more than twenty-five (25) building sites or condominium units or any street or street segment with an expected daily traffic volume of more than three hundred vehicles per day shall be dedicated to the public.
- (3) All streets shall be given a street name that is not the same or similar to any other street name in the Village. A street sign bearing the street name, its designation as a private street and meeting Village standards as to

design, location, and maintenance shall be erected and maintained where such private road adjoins any public road.

- (4) The master deed shall specify all private street easements and shall further contain easements granted to the Village and private utilities for the purpose of providing for the installation, operation, inspection, maintenance, alteration, replacement, and/or removal of public and private utilities, including conveyance of sewer, water, storm water, electrical distribution, telephone, natural gas, and cable television.
- (5) All private improvements installed or constructed as required under the terms of this Ordinance shall be made and maintained at the expense of the property owner(s) or developer.
- (6) A private street which is to serve two or more commercial or industrial uses shall be constructed to the Village standards for commercial and industrial streets as contained or referenced in Chapter XI of the Village Code.
- (7) The master deed shall include provisions which provide for the perpetual private (non-public) maintenance of the private road and easement to a necessary and reasonable standard to serve the several interests involved. These documents shall contain the following provisions:
 - (i) A method of financing in order to keep the street in good and usable condition.
 - (ii) A workable method of apportioning the costs of maintenance and improvements.
 - (iii) A notice that no public funds of the Village of Caledonia are to be used to build, repair, or maintain the private streets, and a statement that the Village will be held harmless for any personal or property damage claims stemming from incidents occurring on or in connection with the private street.
 - (iv) Easements to the public for purposes of public and private utilities, emergency and other public vehicles for whatever public services are necessary.
 - (v) A provision that the co-owners shall refrain from prohibiting, restricting, limiting, or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, employees, and others bound to or returning from any of the properties having a right to use the street.

- (vi) An agreement stipulating that the developer or condominium association agrees to the creation and imposition of a Special Assessment District to cover the cost of reconstruction or rehabilitation of streets to Village Standards should the developer or association, subsequent to final plan approval by the Village, desire to have existing private streets dedicated to the public. Such agreement shall be prepared in such form as shall be necessary, in the reasonable opinion of the Village Attorney to effectuate the purposes of this provision.

- (c) **Water, Sanitary Sewer, Storm Drainage, Private Utilities, Sidewalks and Street Lighting.**
 - (1) Site Condominium Subdivisions shall be required to install public water and sanitary sewer systems and fire hydrants to the same standards applied to platted subdivisions as contained in or adopted by reference in the Village of Caledonia Subdivision Regulations, being Chapter XI, Article IV of the Village Code. Said requirements being included herein by reference.
 - (2) All electric, gas and cable television utilities, when provided, shall be installed underground within easements dedicated for such use.
 - (3) Storm drainage collection, retention, and detention facilities shall be constructed to Kent County Drain Commission standards and approved by the Village Engineer.
 - (4) Side walks and street lighting constructed to Village standards and dedicated to the public shall be installed along all street segments dedicated to the public.

- (d) **Other Required Improvements.**
 - (1) Monuments shall be located in the ground at all angles along the boundaries of the site condominium subdivision. These monuments shall be made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
 - (2) All corners of lots within a site condominium subdivision shall be staked in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (1/2) inch in diameter or other uniform, non-degradable markers as approved by the Building Inspector.

- (e) **Law.** The requirements, procedures, regulations, and powers set forth in the Condominium Act, Act 59 of 1978, as amended, shall apply except as provided by this Ordinance.

- (f) **Inspection and Specifications.** The Village Council may establish inspection fees, inspection requirements, specification standards, and administrative procedures as provided by law and such shall be deemed to be requirements of this Ordinance. All plans and installation of improvements called for shall be subject to the approval of the Village or its agent, or such other competent persons as designated by the Village. All inspection fees shall be paid by the applicant before the Final Plan is signed by the Village unless adequate sureties or deposits to cover these expenses are given to the Village prior to Final Plan approval.

Section 22.6 Variances and Waivers.

- (a) **Building Site Area, Width, and Depth Regulations.** Variances with respect to individual lot width, depth, and area regulations governed by the district regulations of the zoning district in which the site condominium project is located shall be made to the Zoning Council of Appeals pursuant to the procedures, rules, and conditions contained in the Zoning Ordinance, unless the proposal is for a Planned Unit Development. In such instances, paragraph (b) below shall apply.
- (b) **Planned Unit Developments.** Variances with respect to lot dimensions and uses for planned unit developments under the site condominium form of development may be achieved under the procedures and standards contained in Chapter XII, Planned Unit Developments District.
- (c) **Waivers of Design Standards.** Waivers of standards for streets, utilities and other required improvements as stated or referenced in Section 22.5(b), (c), and (d) above may be granted as follows:
 - (1) If the Proprietor can clearly demonstrate that literal enforcement of the terms of this chapter is impractical, or will impose undue hardship in the use of the land because of peculiar conditions pertaining to the land, the Village Council, upon recommendation of the Planning Commission, may permit such waiver or waivers as in its sound discretion, it finds reasonable and within the general policy and purpose of this chapter, and if the Village Council finds that:
 - (i) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the Proprietor of reasonable use of his or her land.
 - (ii) The waiver is necessary for the preservation and enjoyment of a substantial property right of the Proprietor.
 - (iii) The granting of the waiver will not be detrimental to the public welfare or be injurious to the property in the area in which said property is situated.

- (2) The Village Council may, in granting approval of waivers, require such conditions as will in its judgment secure substantially the objectives of the requirements so waived or modified.
- (3) A petition for any such waiver shall be submitted in writing by the Proprietor at the time the preliminary plat is filed for consideration by the Planning Commission. The petition shall fully state the grounds for such waiver.
- (d) **Applications.** Applications for variances waivers or planned unit development shall be made in writing by the petitioner prior to the time when the Preliminary Plan is filed for the consideration of the Planning Commission. The application shall state fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans, or other additional data which may aid the Planning Commission and Zoning Council of Appeals in the analysis of the proposed variance.

CHAPTER XXIII

LANDSCAPING

Section 23.1 Description and Purpose.

- (a) **Purpose.** Landscaping is an important element of the use, development and preservation of land, and a significant factor in conserving the value of land and buildings in the Village. These landscaping regulations are intended to promote the public health, safety and general welfare by establishing minimum standards for the design, installation and maintenance of landscaping in front yards, parking lots, as greenbelts between uses and along roadways, with respect to the land uses in which landscaping is required.
- (b) **Flexibility.** In several instances, the standards and requirements of this chapter are intentionally made flexible, so as to encourage innovative and creative landscape design, consistent with the purposes of this chapter. Applicants are encouraged to provide landscaping in addition to the minimum required, so as to improve the function, appearance and value of properties within the Village.

Section 23.2 Applicability of Landscaping Provisions.

- (a) **Site Plan Review.** The standards and requirements specified in this chapter shall apply to any land use for which site plan review is required under the terms of this Ordinance, including, but not limited to, multiple family dwellings, commercial and industrial uses, special land uses, planned unit developments and other circumstances or types of land use with respect to which site plan review is required.
- (b) **Modifications by Planning Commission.** The Planning Commission may modify the landscaping, buffering and screening requirements of this chapter, if the Planning Commission determines that the required fencing, screening or other features are unnecessary or ineffective, would unduly impair vision at an intersection or driveway, or if the purposes of this chapter will nevertheless be achieved by alternative landscaping features. In approving any such modifications, the Planning Commission shall consider the following criteria:
 - (1) The amount of space on the site available for landscaping.
 - (2) Existing landscaping on the site and on adjacent and nearby properties.
 - (3) The type of land use on the site and the size and scope of the development
 - (4) Existing and proposed adjacent and nearby land uses.
 - (5) Existing native vegetation on the site, and the extent to which strict application of the regulations of this chapter may result in less effective

screening and landscaping than alternative landscape designs, especially those alternatives which incorporate the native vegetation on the site.

(6) The topographic features of the site which may create conditions such that strict application of the provisions of this chapter will result in less effective screening and landscaping than alternative landscape designs which utilize existing topographic features.

(c) **Requests for Modification.** When requesting any modifications from the provisions of this chapter, the applicant shall provide the Planning Commission with a written statement of justification, identifying the site conditions that are stated to warrant the requested modifications, and specifying how the modifications would nevertheless carry out the basic intent and purposes of this chapter.

Section 23.3 Landscape Plan Required.

(a) **Submission with Site Plan.** A landscape plan having a minimum scale of 1" = 50', shall be submitted as part of the application for site plan review, as to all land uses requiring site plan review. The plan may be incorporated within a site plan being submitted for site plan review or for other approvals, or it may be a separate plan, but it shall have sufficient detail and clarity so as to enable the Planning Commission fully to evaluate all aspects of the proposed landscaping and to determine whether the plan complies with the provisions of this chapter.

(b) **Elements of Landscape Plan.** The landscape plan shall include, but is not necessarily limited to, the following:

- (1) Existing vegetation on the site and a clear indication of which existing plants, if any, will be retained.
- (2) Existing and proposed contours of the site, shown at reasonable intervals.
- (3) Typical straight cross-section, including the slope, height and width of berms.
- (4) The location, spacing, size and description of each plant type proposed to be used in all landscaped areas.
- (5) A list of all plants, showing the required and proposed quantities thereof.
- (6) Topographic features of the site which will be utilized as a part of the landscaping of the site.
- (7) Methods and details for protecting during construction activity any existing trees and other existing vegetation that are to be retained on the site.

- (8) Description of a proposed landscape maintenance program, including a statement that all diseased, damaged or dead plant materials shall be promptly replaced.
- (c) **Planning Commission Action.** A landscape plan shall be subject to the approval of the Planning Commission. The Commission shall review the plan in its review of a site plan, a PUD plan, or in connection with its consideration of other land uses for which a landscape plan is required. The Planning Commission may approve the landscape plan, reject the plan or approve the plan with terms and conditions and/or with modifications authorized by the terms of this chapter.

Section 23.4 General Landscape Regulations.

- (a) **Installation and Maintenance.** All required landscaping shall be planted prior to the issuance of a certificate of occupancy; provided, however, that if a certificate of occupancy is ready to be issued, but inclement weather prevents the completion of required landscaping, the certificate may nevertheless be issued, but upon the specific condition that the remaining required landscaping shall then be installed as soon as weather conditions permit, or not later than a date to be specified in the certificate. As a condition of the issuance of the certificate of occupancy in such circumstances, a financial guarantee shall be provided in accordance with subsection (e) of this Section 23.4.
- (b) **Corner Lots.** For the purpose of applying the landscape requirements of this chapter, a corner lot shall be considered as having a front yard along each intersecting street, and accordingly, the required front yard landscaping shall be provided for both street frontages.
- (c) **No Visual Obstructions.** Plant materials shall be planted and maintained so to avoid undue or dangerous vision obstruction near driveways or street intersections.
- (d) **Building Appearance.** Landscaping shall be provided adjacent to buildings if such landscaping serves to enhance the general appearance of the building.
- (e) **Financial Guarantees.** If required by the Village, the applicant shall provide a financial guarantee sufficient to assure the installation of all required landscaping. The financial guarantee may be included with any other such financial guarantee required by the Village with respect to the land use being approved. The financial guarantee may be in the form of a cash deposit, an irrevocable bank letter of credit or a performance bond, with a surety acceptable to the Village.

Section 23.5 Installation and Maintenance of Plant Materials.

- (a) **Duty to Maintain and Replace.** All landscaping shall consist of hardy plant materials, which shall be maintained thereafter in a healthy condition. Withered and/or dead plant materials shall be replaced within one growing season.

- (b) **Good Landscaping Practices.** All landscaping and landscape elements shall be planted, and all earth moving or grading shall be performed, in a sound manner and according to generally accepted planting, grading and other landscaping practices. Native vegetation, rain gardens and other low impact designs are encouraged.
- (c) **Plant Maintenance.** All landscaped areas shall be provided with a readily available water supply, sufficient in quantity and reasonably convenient, so as to assure adequate water for maintaining plant materials in a healthy growing condition.

Section 23.6 Composition of Landscaping; Berms and Other Features.

- (a) **Healthy Plants; Native Plants.** Plant material shall be free of disease and insect infestation and shall be suitable for planting within the Village, given local climatic conditions. The use of native plant species is encouraged.
- (b) **Avoiding Disease.** A mixture of plant material is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended, rather than a large quantity of many different species.
- (c) **Berm Specifications.** Berms shall be constructed with slopes not to exceed a 1:3 gradient, with side slopes designed, graded and planted so as to prevent erosion. A berm shall have a rounded surface at least two feet in width at the highest point of the berm, extending for the length of the berm. The slopes of berms shall be protected with sod, seed, shrubs or other forms of natural ground cover.
- (d) **Landscape Buffer.** The Planning Commission may determine that there shall be a landscape buffer for the purpose of shielding adjacent lands or uses. In such cases, the landscape buffer may consist of earthen berms and/or plant material designed and installed so as to maintain a minimum opacity of at least 80 percent after two growing seasons. For purposes of this requirement, opacity shall be measured by the observation of any two square yard area of landscape screen between a point one foot above the established grade of the area to be concealed and the top or highest point of the required landscape screen.
- (e) **Minimum Landscaping Coverage.** In addition to any landscaped greenbelt and/or parking area landscaping required by this chapter, at least ten percent (10%) of the site area, excluding existing street right-of-way, shall be landscaped. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area, but shall not exceed five percent (5%) of the site area.
- (f) **Storm Water Runoff Reduction.** Rain gardens and other bioretention measures may be included in landscape plans, and their installation and use is encouraged as an effective aid in reducing storm water runoff.

Section 23.7 Minimum Requirements for Landscape Plantings.

- (a) **Minimum Specifications for Plantings.** Plantings shall comply with the following minimum requirements, except that the Planning Commission may in its discretion permit variations in the size of plantings, in order to achieve the intent and purposes of this chapter.
 - (1) Evergreen trees – 5-7 feet height when planted.
 - (2) Deciduous canopy trees – 2 inch caliper when planted.
 - (3) Deciduous ornamental trees – 2 inch caliper when planted.
 - (4) Upright evergreen shrub – 2 feet height when planted.
 - (5) Deciduous shrub – 2 feet in height when planted.
 - (6) Spreading evergreen shrub – 18 inch spread when planted.
- (b) **Types of Plantings.** Types of trees to be planted shall include those that are listed on the current Village List of Approved Landscape Trees and Other Plant Materials, maintained in the Village office, or such other types of trees as are approved by the Planning Commission in its approval of a landscape plan.

Section 23.8 Screening Between Land Uses. As part of any land use for which site plan review is required, screening shall be constructed along all adjoining boundaries with residentially-zoned or residentially-used property. Such screening shall be established and maintained on the subject property in accordance with this section.

- (a) **Required Screening.** On lands devoted to commercial, office, multiple family dwelling and/or industrial uses, and which are adjacent to residentially-zoned or residentially-used land, there shall be screening at least six feet in height along all the boundaries with such residentially-zoned or residentially-used lands. Such screening may consist of a landscape buffer or solid wall, in accordance with this section. If the distance between existing buildings on adjoining parcels is greater than twice the minimum building setback that applies to the residentially-zoned or residentially-used land, then a fence in compliance with Section 23.15 may be installed and maintained instead of the landscape buffer or solid wall, if permitted by the Planning Commission in site plan review.
- (b) **Requirements for Landscape Buffer.** A required landscape buffer may consist of earthen berms and/or living plant materials. At the time the berm, if any, is completed and at the time the plant materials are planted, the landscape buffer shall be sufficient to establish screening of a minimum opacity of eighty percent (80%).

- (c) **Requirements for Fences or Walls.** In its discretion, the Planning Commission may require, as a part of site plan approval, that a solid wall shall be constructed and maintained, where the same is needed in order to provide a greater noise or dust barrier or to screen more intense development. Such a wall shall be constructed and located as determined by the Planning Commission, in accordance with the provisions of this chapter.

Section 23.9 Greenbelts and Screening.

- (a) **When a Greenbelt is Required.** A greenbelt, defined as a landscaped strip of land and as otherwise described in this section, shall be provided along the lot line when any of the following uses abut a residential use, a residential zoning district, a residential planned unit development, or an area planned for residential uses according to the Village General Development Plan:
 - (1) Multiple family dwellings.
 - (2) Uses permitted in the C-1 Neighborhood Business District.
 - (3) Uses permitted in the C-2 Highway Business District.
 - (4) Uses permitted in the I-1 Light Industrial District.
 - (5) Any of the foregoing uses listed in (1)–(4) when permitted in a PUD District.
- (b) **Width.** A greenbelt shall have a minimum width of 10 feet.
- (c) **Plantings on a Greenbelt.** A greenbelt shall be landscaped with at least one tree, with a minimum caliper of two and one-half inches, for each 30 linear feet, or part thereof, of the frontage of the property that abuts any of the above-stated residential uses or districts. The remainder of the greenbelt shall be landscaped with other trees and other natural landscape material, including but not limited to grass, ground cover and shrubbery.
- (d) **Greenbelt Requirements.** A strip of land with a minimum width equal to the minimum required front yard setback of the zoning district shall be located between the buildable area and the abutting right-of-way line of a public street or major thoroughfare, the strip of land shall be landscaped with a minimum of one tree which shall have a height of at least 12 feet or a minimum caliper of two and one-half inches at the time of planting for each 30 linear feet, or major portion thereof, of frontage. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs, and/or other natural, living landscape material.
- (e) **Access Ways Through Greenbelts.** Access ways from public rights-of-way through required landscape strips or greenbelts shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the

minimum number of trees required unless such calculation would result in a violation of the spacing requirement set forth in this section.

- (f) **Features within Greenbelt.** Berms, walls and fences may be included within a greenbelt. In its discretion, the Planning Commission may reduce the amount of required plantings, or may revise the required placement of such plantings, if the berm, fence or wall assists in achieving the intent and purposes of this section.

Section 23.10 Front Yard Landscaping.

- (a) **Minimum Front Yard Requirements.** Except for necessary driveways, frontage roads, service drives or walkways, the front yard shall be landscaped in accordance with the following minimum requirements:
 - (1) Front yard landscaping required by the terms of this section shall be within a greenbelt that is at least 10 feet wide.
 - (2) One canopy tree, two evergreen trees and one ornamental tree for each 50 feet in length of street frontage, or any combination thereof, shall be planted and maintained as front yard landscaping; provided, however, that the Planning Commission may in its discretion modify this requirement.
 - (3) As an alternative to formal groupings of trees, and in order to provide more variety in landscaping, applicants are encouraged to incorporate natural vegetation, native grasses, wildflower plantings, perennials and other materials which may carry out the purposes of this chapter.
 - (4) Earthen berms may be utilized within the front yard in order to provide variety in the appearance of the site and for the screening of vehicle parking areas.
- (b) **Additional Requirements.** In addition, the Planning Commission may require front yard landscaping to be planted and maintained in an area located between the front lot line and the nearest line of front yard vehicle parking areas, for the purpose of obscuring or moderating the view of parked vehicles from the adjacent street. Landscaping in such location, for such purposes, may consist of approved trees and/or shrubs, or other approved plantings. In addition, other screening devices, such as earthen berms or other land contouring, may be required.

Section 23.11 Parking Area Landscaping. All off-street paved parking areas shall be landscaped according to the following minimum requirements:

- (a) **Perimeter Requirements.** There shall be parking area perimeter landscaping consisting of at least one canopy tree installed and maintained for each ten vehicle parking spaces or fraction thereof in the parking area. Landscaping required for greenbelts and front yard landscaping which abuts parking areas may be applied to not more than 50 percent of required parking lot landscaping. Trees required in

landscaped interior islands shall not be applied toward the requirements of this subsection.

- (b) **Interior Parking Lot Islands.** Paved parking lots shall contain individual, curbed landscaped interior islands, in addition to perimeter landscaping, in order to provide shade and to vary the visual monotony of paved parking areas; provided, however, that the Planning Commission may waive this requirement in the case of parking lots of such small size that an interior island is determined to be unnecessary.
 - (1) A landscaped interior island shall be at least ten feet wide and at least 360 square feet in area; provided, however, that the Planning Commission may require that the minimum size of interior islands be 10 feet in width and 720 square feet in area where the size of the parking area is such that larger interior islands would be more effective to moderate visual monotony and to provide the benefits of shade, cooling and rainwater absorption than would likely be accomplished by the use of smaller interior islands.
 - (2) Each interior island shall be planted with at least two canopy trees and six shrubs, or such other equivalent as the Planning Commission may approve. Any shrubs planted within an interior island shall be maintained at a maximum height of three feet. Plantings shall be at least three feet from the edge of the island.
 - (3) Generally, and subject to the approval of the Planning Commission, there shall be one landscaped interior island for every 18 lineally adjacent parking spaces.
- (c) **Avoiding Obstructed Vision.** Landscaping in paved parking areas shall be arranged so as not to obscure traffic signs or fire hydrants or obstruct the sight distance of drivers within the parking area or at driveway entrances.
- (d) **Additional Requirements.** The Planning Commission may require landscaping or other screening measures in areas located between the front lot line and the nearest line of the adjacent off-street vehicle parking area in order to obscure or moderate the view of parked vehicles from the adjacent street.
- (e) **Rain Gardens and Other Alternative Features.** Rain gardens and other bioretention measures may be considered as partial alternatives to interior islands, and applicants are encouraged to consider such measures as elements of parking area landscaping. In its discretion, the Planning Commission may modify parking area landscaping requirements so as to approve rain gardens and other bioretention measures as described in Section 23.14.

Section 23.12 Roadways, Access Drives and Walkways.

- (a) **Shade Trees; Rain Gardens.** In its consideration and approval of a landscape plan, the Planning Commission may require that shade trees be planted and that rain gardens be established along one side of existing roadways, access drives and walkways, where such roadways, drives or walkways abut the site, and also along one or both sides of the roadways, access drives and walkways that are proposed to be located within a development or other land use.
- (b) **Shade Tree Specifications.** Shade trees required to be planted and maintained under the terms of this section shall be at least two and one-half caliper when planted and shall be spaced no greater than 40 feet apart along one or both sides of each roadway, access drive or walkway, though such plantings shall not be required for rear access lanes or alleys.

Section 23.13 Preservation of Existing Trees.

- (a) **Preservation of Existing Trees.** A landscape plan shall provide for the preservation of existing trees of reasonable quality whenever such preservation is feasible, particularly in greenbelt areas. Relocation of existing trees within the site is also encouraged.
- (b) **Use of Existing Trees in Plan.** Existing trees may be utilized for the purpose of complying with landscape requirements, if the trees are in healthy growing condition and if they comply with minimum size requirements.
- (c) **Replacement of Existing Trees.** If a tree which is designated for preservation and for which landscaping credit is given, should die, then the applicant shall replace the tree with a tree of the same or equivalent species, or with a tree which will in approximately the same time attain the same height, spread and growth of the tree which is being replaced. Any replacement tree shall be a minimum of two and one-half inch caliper.
- (d) **Protection of Existing Trees.** Existing trees and other vegetation that are to be preserved shall be labeled “to remain,” or with some comparable legend, on the landscape plan. During construction, protective measures shall be taken so as to protect all plants that are to be preserved, including the installation of temporary fencing or other barriers.

Section 23.14 Rain Gardens.

- (a) **Definition.** Rain gardens are landscaped areas that are designed, planted and maintained to absorb rain water and other storm water runoff, and thereby help to reduce the total storm water runoff from the property on which the garden is located.

- (b) **Use of Rain Gardens.** Applicants are encouraged to include rain gardens in landscape plans and in the landscaping for the types of land uses covered by this chapter; provided, however, that rain gardens shall not serve in the place of required landscaping unless approved by the Planning Commission in its approval of a landscape plan.
- (c) **Other Storm Water Measures.** The Village also encourages applicants to utilize other bioretention practices and other storm water control measures in landscape plans and in approved landscaping under the terms of this chapter; provided, however, that other bioretention practices or measures may not take the place of required landscaping unless approved by the Planning Commission in its approval of a landscape plan. In considering bioretention measures that are included in a landscape plan, the Planning Commission may obtain the advice and recommendations of the Village Engineer and other Village consultants. Such other bioretention measures may include grass waterways, vegetated storm water drainage channels and the use of existing or enhanced swales to control and moderate the flow of storm water within landscaped areas.

Section 23.15 Fencing and Screening. Required fencing and screening shall be six feet in height, unless a different height is specified in this ordinance or determined by the Planning Commission. Gateposts and other superstructures over site entrances and exits may be up to 12 feet in height. Fencing and structured screening materials of a height greater than three feet shall not be located within a required minimum front yard setback or required side yard setback adjacent to a street.

- (a) **Mechanical Equipment.** When located outside of a building, other than a single-family dwelling or two-family dwelling, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents or chimneys, shall be screened to the height of the equipment, as follows:
 - (1) **Roof-Mounted Equipment.** To be screened by architectural features from the view from abutting streets and parcels of land.
 - (2) **Equipment at Grade.** When located on the ground adjacent to a building, mechanical equipment shall be screened by landscaping, or by a solid wall or fencing from the view from abutting streets and parcels of land.
- (b) **Outdoor Storage.** Outdoor storage areas shall be screened on all sides by a solid wall or fencing.
- (c) **Public Utility Substations.** Public utility substations shall be screened on all sides by a solid wall or fencing, and shall be landscaped as required by the Planning Commission in site plan review.

- (d) **Side and Rear Lot Lines.** The side and rear property lines of all non-residential uses shall be screened as follows:
 - (1) **Adjacent to a Residential Use or Zone.** The requirements of Section 23.8 shall apply.
 - (2) **Industrial and Commercial Zones.** A solid wall or fencing shall be located along the side and rear property lines of any site within an industrial or commercial zone that abuts a residential or agricultural zoning district or land use.

Section 23.16 Exceptions to Fencing and Screening Requirements.

- (a) **Buildings Abutting Property Lines.** Required screening or fencing may be omitted along any lot line where a building wall is located immediately abutting the lot line.
- (b) **Location Adjustment.** Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the minimum required building setback line, provided that the areas between the fence and the property lines are landscaped, or retained in their natural vegetative state, whichever may be required by the Planning Commission.
- (c) **Existing Screening.** Any fence, screen, wall or hedge which does not comply with the provisions of this chapter and which is legally existing at the effective date of this chapter may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or hedge except as otherwise permitted by the terms of this Ordinance.

Section 23.17 Materials for Fencing and Screening. Materials for fencing and screening may consist of the following:

- (a) **Wood or Simulated Wood Construction.** Solid board fences with wood posts not less than four inches by four inches and solid board cover not less than one inch thick shall be used. Masonry piers may be substituted for wood posts. Posts or piers shall be spaced not more than eight feet apart, measured between centers. The finished side of the wood shall face abutting properties.
- (b) **Other Fencing Materials.** Wrought iron, open mesh or slatted fencing may be used, provided that a ratio of no more than one part open to four parts of solid fencing is provided.

- (c) **Masonry Walls.** Masonry walls designed and constructed to facilitate maintenance and not modifying natural drainage in such a way as to endanger adjacent property. Such walls shall be constructed on both sides with face brick, poured-in-place simulated face brick, or pre-cast brick panels having simulated face brick, stone, or other decorative masonry material.

VILLAGE OF CALEDONIA
COUNTY OF KENT, MICHIGAN

The Zoning Ordinance of the Village of Caledonia was adopted by the Village Council on June 8, 1992, and became effective July 16, 1992.

This text of the Zoning Ordinance includes all amendments in the Ordinance adopted and made effective as of January 28, 2017.

Village Clerk