

Proposed DRAFT Title 16: Zoning And Village Board Of Appeals

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TITLE 16

CHAPTER 1

Introduction; Authority and Adoption

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SEC. 16-1-1 AUTHORITY AND ADOPTION

(a) This Title is adopted under the authority granted to the Village of Caledonia by Sections §62.23, §62.231, §62.234 and §281.31 of the Wisconsin Statutes and amendments thereto and any other applicable laws or regulations.

- (1) **Title.** This Title shall be known as, referred to, or cited as, “ZONING CODE, VILLAGE OF CALEDONIA, WISCONSIN.”
- (2) **Intent and Purpose.** The intent and purpose of this Title is to promote the health, safety, morals, prosperity, aesthetics and general welfare of this Village and its residents. The additional sewer and water requirements, design standards, conditional use requirements and planned unit development requirements set forth in this Title are intended to ensure that residential, business, commercial, industrial, recreational and institutional developments are properly planned, designed, and located. They are also intended to ensure that buildings, site designs, environmental features and social and economic activities are compatible with the Village Comprehensive Plan, as amended from time-to-time, the surrounding area and the overall community.
- (3) **Abrogation/Greater Restriction.** It is not intended for this Title to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, codes, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, where this Title imposes greater restrictions, the provisions of this Title shall govern.
- (4) **Interpretation.** In their interpretation and application, the provisions of this Title shall be held to be a minimum requirement and shall be liberally construed in favor of the Village and shall not be deemed a repeal of any other power granted by the Wisconsin Statutes.
- (5) **Severability.** Should any portion of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(6) **Repeal of Conflicting Provisions.**

- a. The former Title 16 “Zoning and Village Board of Appeals” of the Village of Caledonia, Wisconsin adopted on the 6th day of December 2005 and amendments thereto are hereby repealed and replaced.
- b. All other ordinances or parts of prior ordinance in conflict with the provisions of this Title are hereby repealed.

(7) **Disclaimers of Liability; Wetlands, Drainage Ways, And Soils.** The Village of Caledonia does not guarantee, warrant, or represent that only those areas delineated as wetlands or drainage ways from tests and / or mapping required by this Title will be subject to periodic inundation, nor does the Village of Caledonia guarantee, warrant, or represent that the soils shown to be unsuited for a given land use from tests and / or mapping required by this Title are the only unsuited soils within the jurisdiction of this Title. The Village hereby asserts that there is no liability on the part of the Village of Caledonia, Village Board, Plan Commission, its agents, contractors, and employees for flooding problems or structural damages that may occur as a result of reliance upon, and conformance with, this Title.

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CHAPTER 2
Administration and Enforcement

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SEC. 16-2-1 ZONING ADMINISTRATOR DESIGNATED.

(a) The Zoning Administrator is hereby designated as the administrative and enforcement officer for the provisions of Title 16. For such duties, they may be provided with the assistance of such additional persons as they may designate.

(1) Term, Appointment, and Duties. The Zoning Administrator shall be appointed by the Village Administrator, subject to confirmation by the Village Board, and shall serve at the pleasure of the Village Board for an indefinite term. The Zoning Administrator shall have the following powers and duties:

- a. Advise applicants of the provisions of this Title; assist them in preparing permit applications and provide information in the event of an appeal, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- b. Promulgate policies and procedures as necessary to administer and enforce this Title.
- c. Determine that all permit applications and their constituent plans, certificate of occupancy applications, sign permit applications and their constituent plans, and site plans comply with all the provisions of this Title.
- d. Keep records of all official actions such as: All permits issued, inspections made, work approved, maintain documentation of certified lowest floor and regional flood elevations for floodplain development, and maintain records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
- e. Investigate and enforce this Title, prepare reports and report violations of this Title to the Village Police Department and the Village Attorney for prosecution.

- f. In case of any finding of a violation of a provision of this Title, notify in writing, the actual violator where known, owner of the property on which the violation has taken place and the Village Board, indicating the nature of the violation and the action necessary to correct it. Following such notice, issue citations for violations of this Title.
 - g. Carry out such additional responsibilities as are hereinafter set forth by the provisions of this ordinance.
- (2) **Authority:** In the enforcement of said Title, the Zoning Administrator shall have the power and authority for the following:
- a. At any reasonable time and for any proper purpose to enter upon any public or private premises as provided by law and make inspection thereof.
 - b. Upon reasonable cause or question as to proper compliance, to initiate revocation proceedings as provided by law any permit under this Title, and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Title; or take any other action as directed by the Village Board to insure compliance with or to prevent violation of its provisions.
 - c. In the name of the Village and with authorization of the Village Board commence any legal proceedings necessary to enforce the provisions of this Title, including the collection of forfeitures provided for herein.

SEC. 16-2-2 BUILDING PERMITS AND OCCUPANCY PERMITS.

- (a) **Required.**
- (1) No structure classified as a building, nor any swimming pool, shall be erected, structurally altered, or relocated within the Village until a building permit has been issued by the Building Inspector certifying that such building as proposed, would be in compliance with the provisions of this Title and with the Building Code of the Village.
 - (2) No vacant land shall be occupied or used except for agricultural purposes, and no building shall be hereafter erected, structurally altered, relocated, used or occupied until a Building Permit and/or Occupancy Permit have been issued certifying that any such building, use, or occupancy complies with the provisions of this Title. Like permits shall be obtained before any change is made in the type of use, before any legal non-conforming use is resumed, changed, extended, or granted conditional use status.
- (b) **Procedure.**
- (1) **Applications.** Applications for Building and Occupancy Permits shall be filed with the Building Inspection Department. Said applications to be filed with the Village shall be filled out completely and all required data must be submitted with application in accordance with this Title and Title 15 of this Code of Ordinance.
 - (2) **Inspection.** After the notification of the completion of the erection, alteration or relocation of the building or of intent to commence a use, the Zoning Administrator and/or Building Inspector shall make an inspection of the premises and any building

thereon and if the building and the intended use thereof, and the proposed use of the premises comply with the requirements of this Code of Ordinances an Occupancy Permit shall be issued.

(3) **Expiration.** Timelines for commencement of work and completion of work under a building permit shall be governed by Sec. 15-1-7 of this Code of Ordinances. An extension of the permit may be granted by the Zoning Administrator or designee for a like period of time upon request of the owner or applicant and submittal of the required fee prior to permit expiration.

(4) **Noncompliance.** Any Building Permit issued in conflict with the provisions of this Title or Title 15 shall be null and void.

Minor revision. A minor revision to a Building Permit may be granted by the Building Inspector upon request of the owner or applicant and submittal of the required fee prior to permit expiration. The Zoning Administrator may determine if the amendment is minor or whether a new Building Permit will be required. The granting of a minor revision does not alter the date of permit expiration.

(6) **Application.** In addition to information required under Title 15 Chapter 1, Applications for a Building Permit shall be made to the Building Inspection Department on forms furnished by the Village and shall include the following where applicable:

- a. Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
- b. Description of the subject site by lot, block, and recorded subdivision or by metes and bounds, referenced to the U.S. Public Land Survey System; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- c. Plat of survey prepared by a land surveyor registered in the state showing the location, property boundaries, dimensions, elevations, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side, rear and shore yards; the location, yard grade (elevation) and use of abutting lands within forty (40) feet of the subject site; and the location of the highwater elevation. In addition, when the subject site contains floodlands, the permit application shall show the limits of the floodland, the lowest floor elevation (basement) of any proposed structure, the first floor elevation of the proposed structure, and the yard grade (elevation); and the first floor elevation and yard grade surrounding any abutting structure within forty (40) feet of the subject site.
- d. Proposed sewage disposal plan if municipal sewerage service is not available. This plan shall be approved by the county sanitarian who shall state in writing that satisfactory, adequate and safe sewage disposal is possible on the site as proposed by the plan in accordance with applicable local, county, and state regulations.
- e. Proposed water supply plan if municipal water service is not available. This plan shall be approved by the Village plumbing inspector of the Village in

which the property is located, who shall state in writing that an adequate and safe supply of water can be provided.

f. Additional information as may be required by the Village staff and officials.

(c) **Other Permit Site Restrictions.**

- (2) **Land Suitability.** No permit shall be issued and no land shall be used or structure erected where the land is held unsuitable for such use or structure by the Plan Commission by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this county.
- (3) **Frontage; Width.** A minimum of thirty-three (33) feet of all lots shall abut upon a public street, or other means of access that was in existence prior to the original adoption of this Title and which has been approved by the Village. All lots shall also have a minimum width at the street yard setback line as prescribed for the particular zoning district in which the lot is located.
- (4) **Principal Structure.** All principal structures shall be located on a lot; and only one (1) principal structure shall be located, erected, or moved onto a lot unless more are allowed and regulated by conditional use permit or site plan review.
- (5) **Street Access.** No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width. No building permit shall be issued for a lot which abuts upon the termination of a non-through-public street unless such street has been or is to be provided with a permanent cul-de-sac or other type of permanent turnaround as determined by the Village Board in which such lot is located.
- (6) **Sanitary regulations.** Where public water supply systems are not available, private well construction shall be required to conform to ch. NR112, Wisconsin Administrative Code. Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal systems shall be governed by Chapter 19 of the Racine County Code of Ordinances adopted by Racine County pursuant to W.S.A., § 59.065. Holding tanks shall comply with the requirements of Title 4 Ch. 8. Widths and area of all lots not served by a public sanitary sewer system or other sewage disposal system approved by that state agency having jurisdiction over the approval or disapproval of such system shall be sufficient to permit the use of a private on-site wastewater treatment system (POWTS) designed in accordance with applicable state and county sanitary regulations but in no case shall be less than one hundred fifty (150) feet in width and forty thousand (40,000) square feet in area unless said lot width and area has been approved by Village Board through the land division or conditional use process. No private waste disposal systems or parts thereof shall be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or their use changed without full compliance of Racine County codes. A Building Permit for a principal structure or an addition thereto may not be issued until evidence of such compliance is provided to the Zoning Administrator.

SEC. 16-2-3 OFFICIAL ZONING MAPS ESTABLISHED.

- (a) **Districts Mapped.** The Village of Caledonia is hereby divided into zoning districts as shown upon a map designated as the Zoning Map of the Village of Caledonia and made part of this Chapter and all the notations, references and other information shown thereon shall be as much a part of this Title as if the matters and information set forth by said map were all fully described herein.
- (b) **Zoning Map Changes.** The Zoning Map shall be kept current at all times and all amendments thereto shall be by ordinance adopted by a majority vote of the Village Board after a public hearing and review and recommendation by the Plan Commission.
- (c) **Determination Of Zoning District Boundaries.** District boundaries shall be determined by measurement from and as shown on the Zoning Map, and in case of any question as to the interpretation of such boundary lines the Plan Commission shall interpret the map according to the reasonable intent of this Title. Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section, or sixteenth section lines; or the center lines of streets, highways, railways or alleys.
- (d) **Additional Maps Adopted.** The following maps are hereby adopted and made part of this Title and are on file in the Village Hall:
 - 1. Floodplain zoning maps as per Chapter 13 of Title 16 of the Village of Caledonia Code as amended from time to time.
- (e) **Identification of Official Ordinance and Map.** The text of the zoning regulations and the corresponding zoning map shall be kept on file in the offices of the Village and any other copies thereof shall be purely informational and shall not have the status of law.

SEC. 16-2-4 APPEALS.

- (a) **Right to Appeal.** Any person aggrieved, or any officer, department, board or committee, commission of the Village affected by a decision of the Zoning Administrator, the Plan Commission or Village Board may appeal such decision to the Board of Appeals as hereinafter established, provided such appeal be taken within a reasonable time, as provided by Sec. 16-3-1 and the rules of said Board of Appeals, and provided such appeal falls within the jurisdiction as set forth under the powers of the Board of Appeals.
- (b) **Appeals Restricted.** This section shall not apply to decisions of the Village Board or Plan Commission relating to the following: Building, Site and Operation Plans; Signs of a temporary or permanent nature as part of a site plan review; Residential Accessory Structures; Conditional Use permit; and zoning district amendments. This Section shall apply only to those appeals of which the Board of Appeals has jurisdiction under. Sec. 16-3-1(b). In a case where a variance from the basic zoning regulations is sought, the Plan Commission and Village Board may file a recommendation with the Board of Appeals

outlining its opinion and findings as they relate to the issue(s) being appealed.

- (c) **Procedure.** Procedures for an appeal to the Board of Appeals are located in Section 16-3-2 of this Title.
- (d) **Further Appeal.** Any person or persons aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board committee or commission of the Village may appeal from a decision of the Board of Appeals within 30 days after the filing of the decision in the office of the Board of Appeals in the manner provided in Section §62.23(7)(e)10 of the Wisconsin Statutes and Section 16-3-2 of this Title.

SEC. 16-2-5 REFILEING FOLLOWING DENIAL, WITHDRAWAL, OR DEFERRAL.

- (a) **Waiting Period.** Upon denial by the Village Board or Planning Commission of any application by a property owner or his/her authorized agent for a zoning district amendment, conditional use, site plan review, appeal or variance, no further application concerning any or all of the same property that is substantially the same as the application denied shall be made within twelve (12) months from the date of such denial.
- (b) **Re-notice of Public Hearing.** Whenever consideration of such an application is deferred or adjourned at the request of the property owner or authorized agent, after notice of any public hearing has been first published, the applicant shall bear the additional advertising and mailing costs.
- (c) **No Refund of Fee.** In no event shall there be any refund of fees in the case of a denial, deferral, or withdrawal.

SEC. 16-2-6 ENFORCEMENT & PENALTIES.

- (a) **Enforcing Officer.** The Zoning Administrator or their designee shall be the enforcing officer of this Title.
- (b) **Enforcement Procedures.**
 - (1) **Non-emergency matters.** In the case of violations of this Title that do not constitute an emergency or require immediate attention, the Zoning Administrator shall give notice of the nature of the violation to the property owner or to any applicant for any relevant permit in the manner hereafter stated, after which the persons receiving notice shall have 3 up to 30 days to correct the violation before further enforcement action shall be taken. Notice shall be given in person, by mail unless the document is returned, or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.
 - (2) **Emergency matters.** In the case of violations of this chapter that constitute an emergency as a result of safety or public concerns or violations that will create increased problems or costs if not remedied immediately, the Village may use the

enforcement powers available under this chapter without prior notice, but the Zoning Administrator shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner and to applicants for any relevant permits.

(c) **Violations.**

(1) It shall be unlawful to construct, develop or use any structure, or develop or use any land, water or air in violation of any of the provisions of this Title or order of the Village. In case of any violation the Village may institute appropriate legal action or proceedings to enjoin a violation of this Title, or seek abatement or removal. In addition, those actions commenced on behalf of the Village may seek a forfeiture or penalty as outlined herein.

(d) **Penalties.**

(1) Any person who fails to comply with the provisions of this chapter, or any order of the zoning administrator issued in accordance with this chapter, or resists enforcement shall, upon conviction thereof, forfeit not less than three hundred seventy six dollars (\$376.00) nor more than one thousand dollars (\$1,000.00) and costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding six (6) months. Each day a violation exists or continues shall constitute a separate offense.

(e) **Declared Nuisances.** Any building erected, structurally altered, or placed on a lot, or any use carried on in violation of the provisions of this Title is hereby declared to be a nuisance per se, and the Village may apply to any Court of competent jurisdiction to retain or abate such nuisance.

(f) **Enforcement by Injunction.** Compliance with the provisions of this Title may also be enforced by injunction order upon petition by the Village to a Court of competent jurisdiction or one or more owners of real estate situated within an area affected by the regulations of this Title.

SEC. 16-2-7 FEES.

For the purpose of defraying the cost of inspection and administrative processing, the Village may charge fees as established from time to time by resolution of the Village Board.

SEC. 16-2-8 SEVERABILITY.

The several sections, subsections, and paragraphs of this Title are hereby declared to be severable. If any section, subsection, paragraph, or subparagraph of this Title shall be declared by a decision of a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of this Title, or of the section of which the invalid portion or paragraph may be a part.

CHAPTER 3
Board of Appeals

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<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
16-3-1	Board of Appeals		

SEC. 16-3-1 BOARD OF APPEALS

- (a) **Establishment.** There is hereby established a Zoning Board of Appeals in the Village of Caledonia in accordance with Section §62.23(7)(e) of Wisconsin State Statutes for hearing appeals and applications, and granting variations and exceptions to the provisions of this Title in harmony with the purpose and intent of this Title.
- (b) **Jurisdiction; Powers of the Board.** The Board of Appeals shall have the following powers granted in Wis. Stat. § 62.23(7)(e)7:
- (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator under this Title except for requirements for municipal sewer and water pursuant to Section 16-5-6.
 - (2) To hear and decide applications for special exceptions from the terms of this Title except for requirements for municipal sewer and water pursuant to Section 16-5-6.
 - (3) To hear and decide all matters referred to it or upon which it is required to pass under this Title except for requirements for municipal sewer and water service pursuant to Section 16-5-6.
 - (4) To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.
 - (5) To hear and decide applications for interpretation of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation (this power does not include an application or decisions on the rezoning of real property).
 - (6) To permit, in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
 - (7) The Board of Appeals may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issue of a permit, except that the Board of Appeals shall not have authority over rezonings, conditional use permits or building, site plan or operations review.

(c) **Membership.**

- (1) **Composition.** The Zoning Board of Appeals shall consist of five (5) members appointed by the Village President and subject to confirmation by the Village Board per Sections §62.23(7)(e)2. Wisconsin Statutes.
- (2) **Terms; Compensation.** Terms of the members shall be staggered three (3) year periods except that of those appointed initially, one shall serve for one year, two for two years, and two for three years. There shall be no compensation received by the members for their service on the board.
- (3) **Officers.** The Board of Appeals shall choose its own chairperson, vice chairperson, and secretary. The Chair shall preside at all meetings of the Board, except that in the event of their absence or disability, the Vice-Chair shall preside. In the absence of both the Chair and the Vice-Chair, the longest standing Board Member shall preside.
- (4) **Alternate Members.** The President may appoint subject to confirmation by the Village Board, for staggered terms of 3 years, 2 alternate members of such board, in addition to the 5 members above provided for. Annually, the President shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board recuses them self or when a member is absent. The 2nd alternate shall so act only when the 1st alternate recuses them self or is absent or when more than one member of the board recuses themselves or is absent.
- (5) **Village Administration.** The Zoning Administrator, or their designee, shall attend all meetings of the Board of Appeals for providing information on the appeal and may present a position on the appeal as Zoning Administrator or on behalf of a body of the Village if so directed.
- (6) **Assistance from other Village Departments.** The Board of Appeals may call on other Village departments for assistance in the performance of its duties and it shall be the duty of such other departments to render such assistance to the Board as may be reasonably required.
- (7) **Official Oaths.** Official Oaths shall be taken by all members of the Board of Appeals according to Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment.
- (8) **Vacancies.** Vacancies of the Board of Appeals shall be filled for the remaining term in the same manner as appointments for a full term.

(d) **Organization; Procedure.** The Board of Appeals conduct meetings as follows and adopt rules of procedure for its own government according to the provisions of this Section:

- (1) **Meetings.** Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. All meetings of the Board shall be open to the public.
- (2) **Minutes.** Minutes of the proceedings of the Board of Appeals and a record of all actions shall be kept by the Recording Secretary, showing the vote of each member upon every question, the reasons for the Board of Appeals' determination, and its findings of facts. These records shall be immediately filed in the office of the Board of Appeals and shall be a public record.

- (3) **Recording Secretary.** A Recording Secretary is provided by Village Administration to record minutes for the Board of Appeals. This position is not a Board appointed employee pursuant to Section §62.23(7)e.2. Wisconsin Statutes.
 - (4) **Quorum.** The presence of a majority of the board members or of board members and alternates shall constitute a quorum.
 - (5) **Assistance.** The Board of Appeals may request assistance from other Village officers, departments, commissions, the Village Attorney and other bodies of the Village.
 - (6) **Stay of Legal Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with the officer, that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a Court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
 - (7) **Oaths.** The Chair, or Vice-Chair in their absence, of the Board of Appeals may administer oaths and compel the attendance of witnesses.
 - (8) **Rules of Procedure.** The Board may adopt such rules of procedure as it deems necessary for the conduct of its proceedings.
- (e) **Administrative Appeals; Application.**
- (1) **General Application Requirements.** Appeals from the decision of the Zoning Administrator and/or designee concerning the literal enforcement of this Title may be made by any person aggrieved, or by any officer, department, board, commission or committee of the Village. Such appeals shall be filed in the Village Hall within thirty (30) days after the date of written notice of the decision or order of the Zoning Administrator or Designee. Applications may be made by the owner or lessee of the structure, land, or water to be affected anytime and shall be filed with the Village Hall.
 - (2) **Application and Notice of Hearing.** An application for an appeals or variance shall be filed in writing at the Village Hall on forms provided by the Zoning Administrator. Before decisions on such petitions, the Board of Appeals shall hold a public hearing thereon pursuant to the requirements set forth in this Section. The application shall include the following:
 - a. Plat of survey prepared by a registered land surveyor showing all of the information required under Section [to be added] for a building permit, if applicable;
 - b. Additional information required by the Zoning Administrator;
 - c. Fee receipt from the Zoning Administrator for the fee required by the schedule of fees adopted by the Village Board and on file with the zoning administrator.

- d. The Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

(f) **Variances; Area and Use.**

(1) **Purpose.** The Board of Appeals, after a public hearing, may determine and vary the regulations of this Title in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Appeals makes findings of fact according to the standards hereinafter prescribed, and further finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Title.

(2) **Definitions.**

- a. "Area Variance" shall mean a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this Section.
- b. "Use Variance" shall mean an authorization by the Board of Appeals under this Section for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

(3) **Burden of Proof.**

- a. A property owner bears the burden of proving "unnecessary hardship," as that term is used in this subdivision, for an Area Variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.
- b. A property owner bears the burden of proving that for a Use Variance, demonstrating that strict compliance with the Title would leave the property owner with no reasonable use of the property in the absence of a variance.
- c. In all circumstances, a property owner bears the burden of proving that the "unnecessary hardship" is based on conditions unique to the property, rather than considerations personal to the property owner, and that the "unnecessary hardship" was not created by the property owner.

(4) **Requirements.**

- a. No variance to the provisions of this Title (except as otherwise provided) shall be granted by the Board of Appeals unless it finds that if the variance is granted it would not be contrary to the public interest; a literal enforcement of this Title provisions would result in practical difficulties or unnecessary hardship due to special conditions; the spirit of this Title is preserved; public safety and welfare are secured and substantial justice done; and a determination if the property owners has met the burden of proof in this Section. In reviewing the application and evidence relating to a variance the Board of Appeals shall consider the findings statements set forth in this Title.

- b. Variances and appeals related to any property in a Floodland District shall comply with Chapter 13 of Title 16.
- (5) **Authorized Variances.** Variances from the zoning regulations of this Title shall be the authority of the Board of Appeals only according to the standards established in this Section. This section shall not apply to decisions of the Plan Commission relating to the following: Building, Site and Operational Plans; Signs of a temporary or permanent nature; Residential Outbuildings; rezonings or Conditional Use requests.
- (g) **Public Hearings.**
- (1) **General.** The Board of Appeals shall hold a public hearing upon each application within a reasonable time of the date of filing. Giving notice of the date, time, place of such hearing, and the matter to be presented at the hearing by publication in the Village of a Class 2 notice under Chapter 985 of the Wisconsin Statutes. Notice of the public hearing shall be given to the Zoning Administrator and mailed to all parties-in-interest at least ten (10) days before the hearing. Parties-in-interest shall be defined as the applicant, the clerk of any municipality within one hundred (100) feet of any lands included in the petition, the Wisconsin Department of Natural Resources, if applicable, and the owners of all lands included in the application and all lands lying within three hundred (300) feet of lands included in the petition. The Zoning Administrator shall set the date for the public hearing(s). At the hearing the applicant may appear in person, by agent, or by attorney.
- (2) **Conduct of Public Hearing.** The Chair or Vice-Chair in their absence, of the Board of Appeals shall place all witnesses under oath. The Board of Appeals shall hear all relevant evidence presented for and against the application. The Chairman of the Board of Appeals may rule on exceptions to evidence and permit examination of witnesses.
- (h) **Findings.** The Board of Appeals shall grant no variance to the provisions of this Title unless it finds that the following facts and conditions exist when applicable and so indicates in the minutes of its proceedings.
- (1) **Preservation of Intent.** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall permit a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
- (2) **Exceptional Circumstances.** There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this Zoning Code should be changed.
- (3) **Economic Hardship and Self-Imposed Hardship Not Grounds for Variance.** No variance shall be granted solely based on economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of the variance.

- (4) **Preservation of Property Rights.** The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (5) **Absence of Detriment.** No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this Title or the public interest.
- (i) **Decision.** The Board of Appeals shall render its decision in writing within thirty (30) days after the completion of the hearing thereon.
- (1) **Required Vote.** The concurring vote of the majority of a quorum (A quorum being 3 or more members) of the Board of Appeals shall be necessary to make a decision, grant a variance, exception, or substitution.
 - (2) **Finding Of Fact.** Every Finding of Fact shall be signed by the Chair or Vice-Chair and attested to by the Board Secretary as evidence of the action of the Board. The original Finding of Fact letter shall be sent to the Applicant. Copies of each Finding of Fact letter shall be filed with the Board’s record of the case at the Village Hall, the property file, and the Zoning Administrator, to the Wisconsin Department of Natural Resources, if applicable, by the Recording Secretary
 - (3) **Conditions.** Conditions may be placed upon any variance granted by the Board of Appeals.
 - (4) **Scope.** In exercising the above mentioned powers such Board may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.
 - (5) **Expiration of a Variance.** All work associated with an approved variance request must be commenced within twelve (12) months from the date of the variance approval, unless otherwise approved by the Zoning Board of Appeals. For the purpose of this code section, “commenced” means that permits have been applied for and obtained and onsite construction has started. Thereafter, the required timelines are established by issued permits.
 - (6) **WI DNR.** Final action on Floodland appeals and variance requests shall not be taken for thirty (30) days or until the Wisconsin Department of Natural Resources has made a recommendation, whichever comes first. All decisions shall be submitted to the local WI DNR office within ten (10) days after the decision.
- (j) **Finality of Decision; Resubmittal.** No appeal that has been dismissed or denied shall be considered again within one year except: on a motion to reconsider the vote made by a member voting with the majority within thirty (30) days of the date of the decision, or on a request for a re-hearing. All decisions and findings of the Board of Appeals on any application for a variance, after a public hearing, shall, in all instances be the final administrative decision and shall be subject to judicial review.

- (k) **Re-Hearing.** No request to grant a re-hearing shall be entertained unless substantial new evidence is submitted which could not reasonably have been presented at the previous hearing. In all cases, the request for a re-hearing shall be in writing listing the reasons for the request, and shall be duly verified and accompanied by the necessary data and diagrams. The party requesting the re-hearing shall be notified to appear before the Board on a date to be set by the Board, of which the requestor shall be notified. If a motion to grant a re-hearing receives the affirmative votes of three or more members of the Board, the case shall be put on the calendar for a re-hearing. Re-hearings shall be subject to the same requirements as the original hearing.

- (l) **Review By Court Of Record.** Any person or persons aggrieved by any decision of the Board of Appeals may commence an action seeking the remedy available by certiorari in the Circuit Court of record and specifying the grounds of the illegality pursuant to Sec. 62.23(7)(e)(10), Wis. Stat. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the Board of Appeals at the Village Hall.

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CHAPTER 4
Required Plans and Design Guidelines

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<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
16-4-1	Required Plans		
16-4-2	Developers Deposit Required		
16-4-3	Developer Agreement Required		
16-4-4	Design Guidelines		

SEC. 16-4-1 REQUIRED PLANS.

- (a) **Purpose and Intent.** In order that the physical environment of the Village be developed in a way that will provide the maximum degree of aesthetic satisfaction through architectural and natural beauty and harmony and thereby provide most satisfyingly for the well-being and contentment of its inhabitants as well as for greater economic stability through preservation and enhancement of property values, it is deemed necessary to exercise regulation over the architectural appearance and construction of buildings erected, remodeled or in any way placed within the Village. Such regulations are herein known as Building, Site, and Operation ("BSO") Plans.

The Building Site and Operation Plan is not intended to impose a pattern of regimented conformity to any specific architectural style or taste established by the Village Board, the Plan Commission, or the existing residents of any area; but is intended solely to prevent any development which would substantially affect adversely the existing or potential beauty and character of the neighborhood, reduce its desirability, and depreciate surrounding property values.

- (b) **BSO Exemptions: Administrative Reviews.**

(1) **Single Family And Two Family Uses.** Single-family or two-family residential development activity on unplatted lands, or associated with an approved final plat of a subdivision or certified survey map shall be exempt from Plan Commission Building Site and Operational Plan approval. All plans for single-family or two-family residential development activity shall be approved administratively unless developed as a planned unit development under this Title..

(2) **Signs.** Where in the determination of the Zoning Administrator, a proposed change to an approved sign is deemed non-substantial, said changes may, in the sole determination of the Zoning Administrator, be exempted from Plan Commission Building Site and Operational Plan approval.

- (c) **Building Site And Operation Plan Required.**

(1) **Purpose.** The purpose of this Section is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this Section are designed to ensure that all proposed land use and development activity complies with the requirements of this Title. Specifically, this Section

requires that the initiation of all development activity (including building permits, zoning certificates, occupancy permits for a change of use of an existing lot or structure where there is contemplated a site plan revision, clear cutting, grading or filling) require the approval of BSO Plans by the Village staff before the building, occupancy, and Building Permits will be issued.

(2) **Application Procedure.**

- a. **Initiation of Request for BSO Plan Approval.** Procedures for approval of a site plan shall be initiated by the owner(s) of the subject property, or their legally authorized representative(s).
- b. **Pre-Application Meeting.** The petitioner is strongly encouraged to first meet with the Zoning Administrator and other applicable Village Staff to discuss preliminary concepts and plans for the development. Guidance will be provided to the Petitioner on technical requirements and procedures, and a timetable for project review may be discussed.

(3) **Application Requirements.** Petitioner shall submit a complete BSO Plan application, accompanied by all fees and deposits, which from time-to-time may be adopted by resolution of the Village Board and in effect at the time of submittal. A complete application shall be comprised of all of the following (as applicable to particular development):

- a. Written Description of the intended use describing in reasonable detail the:
 - 1. Full name and contact information of the petitioner and / or agent, and property owner, if different;
 - 2. Full name and contact information of petitioner’s engineers / surveyors / architects, and other design professionals used in BSO Plan preparation;
 - 3. Existing zoning district(s) and proposed zoning district(s) if different;
 - 4. Current land uses present on the subject property;
 - 5. Proposed land uses for the subject property
 - 6. Land use designation(s) as depicted on the adopted Comprehensive Plan;
 - 7. Description of existing environmental features;
 - 8. Projected number of residents, employees, and / or daily customers;
 - 9. Proposed amount of dwelling units, floor area, open space area, and landscape surface area, expressed in square feet and acreage to the nearest one-hundredth of an acre;
 - 10. Resulting site density, floor area ratios; open space ratios, and landscape surface area ratios;
 - 11. Operational considerations relating to hours of operation, projected normal and peak water usage, sanitary sewer or septic loadings,
 - 12. Traffic generation;
 - 13. Operational considerations relating to potential nuisance creation pertaining to the appropriate design of street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and

explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials.

14. Exterior building and fencing materials;
15. Possible future expansion and related implications for (1) to (14), above, and:
16. Any other information pertinent to adequate understanding by the Plan Commission of the intended use and its relation to nearby properties.

b. Property Site Plan drawing which includes:

1. A title block which provides all contact information for the petitioner and / or agent, and property owner if different;
2. Full name and contact information of petitioner's engineers / surveyors / architects, and other design professionals used in BSO Plan preparation;
3. The date of the original plan and the latest date of revision to the plan;
4. A north arrow and a graphic scale. Said scale shall be in engineering scales, and shall not be smaller than one inch equals 100 feet unless otherwise allowed;
5. A legal description of the subject property;
6. All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
7. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
8. All required building setback and offset lines;
9. All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, walls,
10. All existing and proposed utility and drainage systems, connections and fixtures;
11. All requirements of the Village Fire Code;
12. The location and dimension of all access points onto public streets including cross-section drawings of the entry throat;
13. The location and dimension of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus required by this Code;
14. The location and dimension of all loading and service areas on the subject property and labels indicating the dimension of such areas;
15. The location of all outdoor storage and refuse disposal areas and the design of all screening devices;
16. The location, type, height, size and lighting of all signage on the subject property;
17. The location, height, design/type, illumination power and orientation of all exterior lighting on the subject property including photometric

plans. All lighting plans and specifications to meet the Village Adopted Design Manual per Section 16-4-4;

18. The location and type of any permanently protected green space areas. Open space shall be designed as an integral part of the site, and may not include those areas required for parking, loading or other impervious surfaces. This requirement does not pertain to redevelopment of sites which are unable to provide open space at the time of the adoption of this Title. In those cases, the open space may not be reduced beyond that which exists on the property at the time of adoption of this Title except as may be authorized by the Plan Commission;
19. The location of all environmental features including wetlands, floodplains, environmental corridors, steep slopes, forest areas or any other permanently protected natural resource area protected under Local, State or Federal regulations;
20. The location of existing and proposed drainage facilities; and
21. Building Heights

c. A Detailed Landscaping Plan of the subject property, at the same scale as the site plan showing:

1. The name and address of the property owner, the landscape architect or designer who prepared the plan.
2. The name of the proposed project.
3. The plan preparation date and the date of any revisions thereto.
4. A graphic scale and a north arrow.
5. A legal description of the property.
6. A plat of survey, or a sketch drawn to scale.
7. The location, caliper (size), and common name of all existing deciduous trees six (6) inches or larger in diameter at breast height (d.b.h.), all existing coniferous trees 10 feet or greater in height, and the boundaries of any existing woodlots.
8. Identification of all trees inventoried which are to be moved or destroyed.
9. The location of all proposed plantings.
10. A planting schedule showing all symbols intended to represent plantings, quantities of plant materials, and common and botanical names of plant materials, size and caliper of plant materials, root specifications, and special planting instructions.
11. Typical Sections and details of fences, tie walls, planting boxes, retaining walls, berms, and other landscape improvements.
12. Typical Sections of landscape islands and planter beds identifying materials to be used.
13. Details of planting beds and foundation plantings.
14. Delineation of sodded areas, seeded areas, and wilderness areas indicating square footage, materials to be used, and seed mixtures.

15. Where landscape or man-made materials are used to provide required screening or buffers from adjacent properties or public rights-of-way, a cross-section shall be provided drawn to a recognized engineering scale illustrating the prospective of the site from the neighboring property and property line elevation.
16. All other design elements found in the adopted Village Design Guideline Manual per Section 16-4-4.

- d. A Grading and Erosion Control Plan to be approved by the Village Engineer. Said plans are not subject to Plan Commission review but are required to be submitted concurrent with BSO Plan applications in order for the submittal to be complete.
- e. Elevation Drawings of proposed buildings or proposed remodeling of existing buildings showing finished exterior treatment, with adequate labels provided to clearly depict exterior materials, texture, scale, color and overall appearance.
- f. Color Renderings and Perspective Renderings. The Plan Commission reserves the right to require perspective renderings, but not in lieu of adequate drawings showing the actual intended appearance of the buildings.
- g. Photo Simulations and 3-D virtual visualizations of the proposed project and/or photos of similar structures may be voluntarily submitted and may be required by the Plan Commission, but not in lieu of adequate drawings showing the actual intended appearance of the buildings.
- h. A Plat of Survey shall be required for all projects. The survey shall be prepared by a Registered Land Surveyor and shall depict property lines, and existing and proposed buildings, structures, and paved areas.
- i. A Developers Deposit in an amount required by adopted policies of the Village Board may be required from time to time. The purpose of the Developers Deposit is to provide a surety to address all charges required to be paid by a petitioner under Section 16-4-2 of the Municipal Code. The requirement for submittal of a Developers Deposit for specific projects may be modified or waived by the zoning administrator.

(d) **Review by Plan Commission.**

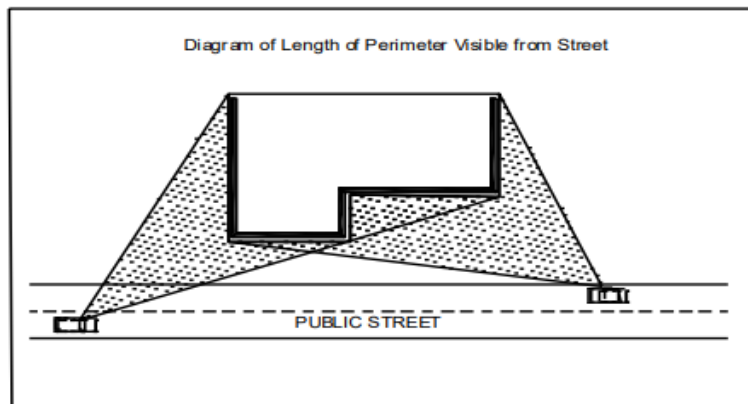
- (1) The Plan Commission, in its consideration of the submitted BSO Plan application, shall take into account the basic intent of this Title to ensure attractive, efficient, and appropriate development of land in the community, and to ensure particularly that every reasonable step has been taken to avoid depreciating effects on surrounding property and the natural environment. Beyond protection of the public health, safety and welfare, and morals, this Section shall enable the Plan Commission to consider factors related to community aesthetics, urban design, and architectural consistency within the community. The Plan Commission, in reviewing the application may require such additional measures and/or modifications to any or all elements of the site plan as described in the application submittal required per Section 16-4-1(c)2 as it deems necessary to accomplish this objective. If such additional measures and/or modifications are required, the Plan

Commission may withhold approval of the BSO Plan until a revision depicting such additional measures and / or modifications are submitted to the satisfaction of the Plan Commission, or may approve the application subject to the provision of a revised application reflecting the direction of the Plan Commission to the satisfaction of the Zoning Administrator or their designee. Such amended plans and conditions applicable to the proposed use shall be made a part of the official record, and development activity on the subject property may not proceed until the revised application has been approved pursuant to the procedures described herein.

- (2) In reviewing said application the Plan Commission shall make findings on each of the following criteria to determine whether the submitted BSO Plan shall be approved, approved with modification, or denied:
- a. The public health and safety is not endangered;
 - b. All standards of the Zoning Ordinance and other applicable Village, State and Federal regulations are met;
 - c. All standards of the adopted Village Design Guideline Manual (per Section 16-4-4) are met;
 - d. Adequate Public Facilities (sewer/water) are provided;
 - e. Adequate control of stormwater and erosion are addressed through submittals to be reviewed and approved by the Village Engineer per Municipal Code;
 - f. The disruption of existing topography, drainage patterns, and vegetative cover is minimized insofar as is practical;
 - g. Appropriate traffic control and parking are provided;
 - h. Appropriate landscaping and open space areas are provided;
 - i. The appearance of structures maintains a consistency of design, materials, colors, which comply with the general architectural guidelines adopted by the Village.
- (3) **Architectural Control.** In order that the physical environment of the Village is developed in a way that will provide the maximum degree of aesthetic satisfaction; through architectural and natural beauty, harmony with adjacent facilities, and thereby provide the most appealing development for the well-being, and contentment of its inhabitants. In addition, to promote greater economic stability through preservation and enhancement of property values, it is deemed necessary to exercise regulation over the architectural appearance and construction of buildings erected, remodeled, or in any way placed within the Village. Such regulations are not intended to impose a pattern of regimented conformity to any specific architectural style or taste established by the Plan Commission, review board, or the existing residents of any area; but is intended solely to prevent any development which would substantially adversely affect the existing or potential beauty and value to the community, the characteristics of the neighborhood—potentially reducing its desirability and depreciating surrounding property values.

To implement and design criteria for the purposes stated above, to promote Four Sided Architecture and Quality in Design Standards, the following standards are established:

- a. No building shall be permitted a design or exterior appearance which is unorthodox or has abnormal character in relation to the surrounding properties as to be unsightly or offensive to generally accepted tastes of the community and professional judgment of the Planning Commission.
- b. No building shall be permitted where any exterior surface is not constructed or faced with a finished material which is aesthetically compatible with the exterior surface of adjacent buildings and presents an attractive appearance to the public and to surrounding properties
 1. Acceptable exterior materials include split face concrete masonry, decorative block, 2-inch brick veneer, 2-inch stone veneer, cut stone panels, pre-cast concrete wall panels, and terra cotta. Proposals to use other materials shall require a $\frac{3}{4}$ majority approval from the Plan Commission.
 2. The façade of a multi-family residential building shall consist of acceptable exterior materials that covers at least sixty-five (65%) of the surface of the visible perimeter of the building from the street.
 3. The façade of a manufacturing, commercial, office, institutional or park building shall consist of acceptable exterior materials that covers at least seventy-five percent (75%) of the surface of the visible perimeter of the building from the street.



- c. All buildings and the proposed materials, shape, and colors should follow the adopted Village Design Guide per Section 16-4-4.
- (3) **Initiation of Land Development Activity.** Except with the written permission of the Zoning Administrator and the Building Inspector or their designees, absolutely no land use or development activity, shall occur on the subject property prior to the approval of the required BSO Plan or BSO Plan Amendment. Any such activity prior to such approval shall be a violation of this Chapter and shall be subject to all applicable enforcement mechanisms and penalties.
 - (4) **Compliance in Perpetuity.** Any BSO Plan granted through the authority of this Section shall be perpetually binding upon the development and all aspects of the approval given shall be followed. Further, BSO Plans referenced above, shall be

perpetually binding to the extent that:

- a. All buildings and structures shall be maintained in a tasteful, safe and appropriate manner as they were originally approved for.
- b. All landscaping shall be periodically groomed and/or replaced when necessary.
- c. All drives, parking and pedestrian areas shall be kept in a safe and passable condition. This includes the maintaining of the appropriate pavement markings and the refinishing of the asphalt or concrete when it should become deteriorated.
- d. All natural areas and environmental areas identified for protection shall be maintained in manner which preserves their aesthetic and natural function.
- e. All repairs and maintenance shall be executed in a timely manner.

- (5) **Plan Commission Approval Follow Thru Inspection.** The Zoning Administrator or designee shall make a final inspection of all new buildings, building sites, additions and alterations of properties that have received Plan Commission approvals in order to assure all approvals from Planning Commission have been accomplished. The inspection shall be made at the same time final inspections are requested as part of building permits or, in the case building permits aren't required for the improvements, the inspection shall be made upon the developer notifying the Zoning Department that the improvements have been accomplished. If all approvals have been followed, a certificate of occupancy will be allowed. If further improvements are required, the certificate of occupancy will be withheld until such time the improvements are completed. A certificate of occupancy may be issued subject to certain items being completed within a given amount of time, however, if the items are not completed within the given timeframe, the certificate of occupancy can be revoked. Revocation of the certificate of occupancy requires all business use of the property to cease immediately until such time a new certificate of occupancy is given.
- (6) **Modifications To Approved Plans.** Where modification to an approved BSO Plan is requested, the Zoning Administrator or designee is authorized, upon review of the proposal, to make a determination that the modification is either a non-substantial change or a substantial change to the approved BSO Plan. Where it is determined that the modification is non-substantial, the Zoning Administrator or designee may approve the modification. Where it is determined that the modification is a substantial change to the approved BSO Plan, said Plan shall be revised and review by the Plan Commission pursuant to the procedures of this Section above, so as to clearly and completely depict any and all proposed modifications to the previously approved BSO Plan, prior to the initiation of said modifications.
- (7) **Expiration.** Plan commission approvals granted for building, site and operation plans in which the petitioner has not commenced construction activity or preparation of the land, or has not submitted a Certified Survey Map or Preliminary Plat within the past 12 months of the date of approval, said approval will expire and reapplication will be required. A reapplication shall be limited solely to reasonable

compliance with current design, locational, and operational requirements. A reapplication shall not involve the basic permissibility of the use where such use is permitted by right at the time of reapplication. The Plan Commission may grant one six-month extension if requested 30 days prior to the pending expiration date provided that the applicant demonstrates a valid cause.

SEC. 16-4-2 DEVELOPER'S DEPOSIT REQUIRED.

- (a) Any applicant submitting a development item that requires Village Board and/or Plan Commission review and approval processes may be required to submit a developer's deposit at the time of application along with any other required fees for the proposal. The amount of the developer's deposit is established by the Village Board and is dependent on the type and intensity of proposal being applied for. However, the Zoning Administrator reserves the right to request a smaller/larger deposit depending on the scope of the proposal. The developer's deposit will be used to reimburse the Village for the following activities during the duration of the development proposal:
- (1) Processing, reviewing, revising, and approving conceptual, preliminary or final development plans, including meeting time, regardless of whether the developer attended or participated in the meeting;
 - (2) Processing, reviewing, revising, drafting and approving any agreements, easements, deed restrictions or other documents associated with the proposed use;
 - (3) Inspection and approval of construction and installation of all improvements provided for in the development, including but not limited to, consultation reasonably required to address issues and problems encountered during the course of design and construction of the development; and
 - (4) Costs of Village consultants including engineers, planners, attorneys, inspectors, ecologists, agents, sub-contractors and the Village's own employees. Such costs shall also include those for attendance at meetings. The cost for outside services shall be the direct cost incurred by the Village. The cost for Village employees' time shall be based upon the classification of the employee and the rates established by the Village Board, from time-to-time, for each such classification.
- (b) The Village shall apply such funds toward payment of the above costs. If at any time said deposit becomes insufficient to pay expenses incurred by the Village for the above costs, the Applicant shall deposit required additional amounts within fifteen (15) days of written demand by the Zoning Administrator or designee. Until the required funds are received, no additional work or review will be performed by the Village as to the plan under consideration. Within 60 days after any final action by the Village and execution of any documents by all parties, or upon abandonment of the plan, the Village shall furnish the Applicant with a statement of all such costs incurred by it with respect to such plan. Any excess funds shall be remitted to Applicant, and any costs in excess of such deposit shall be paid by the Applicant. Any interest earned on said deposit shall remain the property of the Village to partially offset administrative expenses associated with planning and development.

SEC. 16-4-4 DEVELOPMENT AGREEMENT REQUIRED.

- (a) An Applicant shall enter into a Development Agreement with the Village prior to any construction activity as part of a development project which may include grading/water/sewer/storm/road installations. The development agreement shall include the following terms and conditions:
- (1) Any necessary streets and appurtenances thereto, shall be constructed at the expense of the Applicant in accordance with the provisions of the Village's Code of Ordinances which are in effect at the time of such construction.
 - (2) Sanitary and water mains and laterals, and storm water drainage facilities, and any related off-site improvements shall be paid for, constructed and installed by Applicant as required by the Village and its Code of Ordinances at applicant's expense;
 - (3) Assignment of landscape maintenance responsibilities to the owner(s) of the property in accordance with the submitted landscape plan and the ability of the Village to conduct such work and charge all costs incurred by the Village as a special charge against the real estate upon owner's failure to maintain.
 - (4) A prohibition of any privately imposed limits on the type or reuse of the site buildings through conditions of sale or lease unless approved by the Village and except for approved restrictions related to condominium ownership;
 - (5) Applicant agreeing to reimburse the Village for all costs incurred by the Village for engineering, inspection, planning, legal and administrative expenses in:
 - a. Processing, reviewing, revising, and approving conceptual, preliminary or final development plans, including meeting time, regardless of whether the developer attended or participated in the meeting;
 - b. Processing, reviewing, revising, drafting and approving any agreements, easements, deed restrictions or other documents associated with the proposed use;
 - c. Inspection and approval of construction and installation of all improvements provided for in the development, including but not limited to, consultation reasonably required to address issues and problems encountered during the course of design and construction of the development; and
 - d. Such costs shall include the cost of Village consultants including engineers, attorneys, inspectors, planners, ecologists, agents, sub-contractors and the Village's own employees. Such costs shall also include those for attendance at meetings. The cost for outside services shall be the direct cost incurred by the Village. The cost for Village employees' time shall be based upon the classification of the employee and the rates established by the Village Board, from time to time, for each such classification.
 - (6) Applicant shall agree to indemnify and hold the Village and its agents harmless from and against claims related to the performance of work at or for the site;
 - (7) Applicant's principals shall be personally responsible for reimbursement of costs to the Village in the event the Applicant does not proceed with the actual installation as approved by the Village;
 - (8) Applicant shall be responsible for payment of the Village's costs, disbursements and attorney's fees in the event the Village brings legal action to enforce

compliance with this agreement and a final determination is made in favor of the Village;

- (9) The terms and conditions of the agreement shall extend to the heirs, administrators, successors in title and assigns of the applicant, including personal liability. However, Applicant may not assign its rights, duties and responsibilities under this Agreement to any other third party without first obtaining the prior written consent of the Village.
- (10) The Applicant shall convey all necessary easements to the Village;
- (11) As a condition precedent to the execution of the development agreement, the Applicant shall post a cash deposit or file a letter of credit with the Village guaranteeing compliance with the Village Ordinances and provisions of the Development Agreement. Such security shall be such amount as to cover 120% of the estimated costs of storm water drainage, lot grading, landscaping, and any street/water/sewer construction work as provided for under the Development Agreement. Such estimated costs shall be provided by the Applicant or his engineer and shall be subject to the approval of the Village; and
- (12) Other terms that the Village and Applicant shall deem appropriate.

SEC. 16-4-4 DESIGN GUIDELINES.

- (a) **Purpose.** The general purpose of design guidelines is to aide the Village Staff and Plan Commission in planning, design, and redesign of the built environment of the Village of Caledonia so as to enhance its visual character, and avoid monotony. These standards will also assist in fostering sound, functional, attractive and quality development. The provisions shall be liberally construed in favor of the Village and shall be considered as minimum standards.
- (b) **Required.** The adopted guidelines are applicable to all new and amended commercial, industrial, institutional, recreational and multi-family applications after adoption of this ordinance for all permitted uses in any zoning district in which they are allowed, any conditional use, or as part of a planned unit development. Design, placement and orientation of buildings shall facilitate appropriate land use integration and appropriate vehicular and pedestrian flow to adjoining areas and neighborhoods, and shall forward community character objectives as described in the Village's adopted Comprehensive Plan, as amended from time-to-time. When a property is within a design guide overlay district certain restrictions can apply regarding the development and redevelopment of the property subject to Plan Commission approvals.
- (c) **Design Guidelines Manual.** The applicant shall follow the Design Guidelines Manual, as published and revised by the Village from time-to-time for all permitted Business, Commercial, Industrial, Recreational, multi-family and Institutional uses, all conditional uses and all planned unit developments. These guidelines are available from the Village Hall. Among other features, these guidelines address the standards such as all subject to Plan Commission approval and discretion. Where zoning ordinances in this Title are found that are related to topics in the adopted Design Guide Manual the adopted ordinances shall supersede the Design Manual.

CHAPTER 5
General Provisions

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<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
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16-5-2	Building Location		
16-5-3	Building Height		
16-5-4	Building Size		
16-5-5	Lot Area and Width		
16-5-6	Sewer and Water Service Required		
16-5-7	Site Restrictions		

SEC. 16-5-1 USES REGULATED.

- (a) **Uses Restricted.**
- (1) No structure or land shall be used and no structure shall be hereafter erected, structurally altered, or relocated except for a use as permitted and in compliance with the regulations hereinafter established for the district in which it is located.
- (b) **Uses Classified.**
- (1) For the purpose of this Title all uses shall be classified according to the following categories:
- a. Permitted Uses by Right: Principal uses the permissibility of which is a predetermined right anywhere in the district which located subject only to the regulations established governing such use.
 - b. Permitted Accessory Uses: Uses incidental, customary to, and commonly associated with a permitted principal use.
 - c. Permitted Uses by Conditional Use Permit: Uses, the nature, character, or circumstances of which are so unique, or so dependent upon the specific contemporary conditions, that predetermination of permissibility by right, or the detailing of the specific standards, regulations, or conditions necessary or appropriate to such permissibility are not practical; but which may be permitted in the districts where listed subject to certain conditions and requirements as hereinafter specified.
- (c) **Unclassified Uses.**
- (1) Any use not specifically listed as a permitted use shall be considered to be prohibited except as may be otherwise specifically provided hereinafter. In case of questions as to the classification of a use, the question shall be submitted to the Plan Commission for determination.

SEC. 16-5-2 BUILDING LOCATION.

- (a) **Location Restricted.**
- (1) No building or structure shall be hereafter erected, structurally altered or relocated on a lot except in conformity with the following locational regulations as hereinafter specified for the district in which it is located.

(b) **Setbacks.**

- (1) All lot area requirements are measured exclusive of any highway right-of-way and all street yard setbacks are measured from the outer limit of the highway right-of-way or private road easement.
- (2) Building projections into street yards: Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.
- (3) Street yard setback increase: The street yard must be increased in any residential or business district to the average of the existing street yards of the abutting structures on each side. In no case may the street yard be decreased to less than the district minimum setback. Only principal structures on abutting lots within one hundred (100) straight-line feet of the proposed structure may be used for averaging. Any existing uncovered and/or unenclosed portion of a principal structure, such as deck or covered porch, can only be used for averaging with a similar uncovered and/or unenclosed portion of a proposed structure. If an abutting lot is vacant or the existing principal structure is greater than one hundred (100) feet from the proposed structure, the minimum required setback for the district may be used when said abutting lot is a substandard lot. This requirement can be waived if written approval is granted by adjacent property owners.
- (4) Pergolas and otherwise uncovered decks, stairs, landings and fire escapes may project into any yard, but not to exceed six (6) feet and not closer than three (3) feet to any lot line and no closer than ten (10) feet from any street right-of-way.
- (5) Architectural projections, such as chimneys, flues, sills, eaves, belt courses, ornaments, decorative projections, lighting fixtures, balconies, and bay/bow windows, may project into any required yard; but such projection shall not exceed two (2) feet and bay/bow windows must be less than or equal to eight (8) feet wide.
- (6) The only structures permitted within such setback area shall be necessary highway and traffic signs, public utility lines and poles, walls and fences, as regulated by this Code, rural mailboxes, signs as permitted under the individual district regulations, or as permitted by this Code, structures other than buildings as regulated by this Code.
- (7) Maintenance and Use of Setback and Offset Areas: Any such required setback or offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse, and shall not be used for storage or display of equipment, products, vehicles, or any other material except as may be specifically otherwise permitted under this ordinance.

(c) **ADA Accommodations.**

- (1) The Zoning Administrator shall be authorized to review and issue a Building Permit to allow a nonconforming building addition projection, such as a wheelchair ramp, that is needed to allow the minimum required reasonable accommodation that is necessary to allow ingress/egress by a handicapped or disabled person to the following:
 - a. A residential structure utilized by such person that lives on the property or such person employed in a home occupation on the property. Any such addition shall be removed within thirty (30) days from the time that the

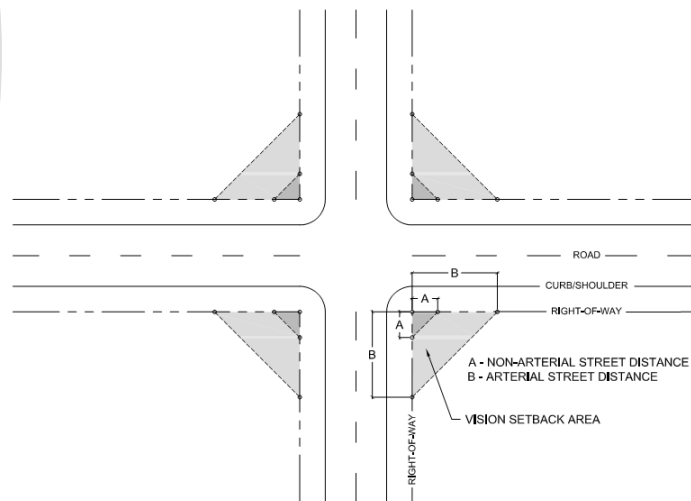
structure is no longer serving the aforementioned handicapped or disabled person.

- b. A commercial facility or any other structure that provides public accommodations.
- c. Any such projection should be designed to be at least three (3) feet from any lot line and have a minimal intrusion into a floodplain, wetland, environmental corridor, or required shore yard setback.

(d) **Vision Setbacks.**

(1) Vision setbacks at the intersections of public streets exist and no obstructions, such as structures, parking or vegetation, shall be permitted in any zoning district above the height of two and one half (2½) feet. Vision setback areas are hereby established as follows:

- a. The triangular space formed by any two (2) existing or proposed intersecting street right-of-way lines and a line joining points on such lines located a minimum fifteen (15) feet from their intersection.
- b. In the case of arterial streets intersecting with another arterial street, or railways, the corner cutoff distances shall increase to fifty (50) feet.



SEC. 16-5-3 BUILDING HEIGHT.

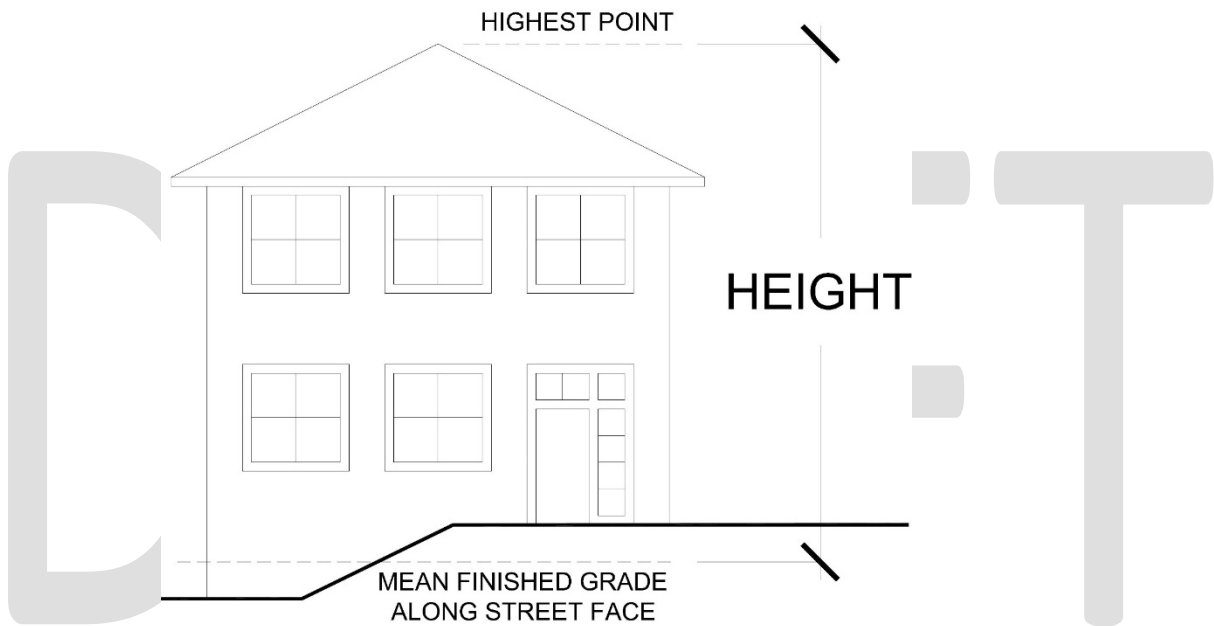
(a) **Maximum Height Restricted.**

- (1) In any district, no building or structure shall be hereafter erected or structurally altered to a height in excess of that hereinafter specified by the regulations for that district, except as may be modified by this Code.
- (2) **Exceptions.** The following shall be exempt from the height regulations of all districts:
 - a. Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys.

- b. Special structures, such as elevator penthouses, gas tanks, grain elevators, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks.
- c. Essential services, utilities, water towers, electric power and communication transmission lines.

(3) **How Measured.**

The height of any other structure shall be defined as the total height of the structure measured with a line from the mean finished lot grade along the street yard face of the structure to the highest point of a roof.



SEC. 16-5-4 BUILDING SIZE.

- (a) **Residence Area Requirements - Single Family.** No building permit shall be issued for the construction of a single-family residence shall have an area of less than the following:
 - (1) If constructed with a basement:
 - a. Nine hundred (900) square feet for a two (2) bedroom home.
 - b. One thousand (1,000) square feet for a three (3) bedroom home.
 - c. One thousand two hundred (1,200) square feet for a four (4) bedroom home.
 - (2) If constructed without a basement:
 - a. One thousand (1,000) square feet for a two (2) bedroom home.
 - b. One thousand one hundred (1,100) square feet for a three (3) bedroom home.
 - c. One thousand three hundred (1,300) square feet for a four (4) bedroom home.
- (b) **Residence Area Requirements -- Two Story.** Two (2) story residences and residences with expandable second floors shall have a minimum of eight hundred (800) square feet on

the first floor. The building area shall be computed on the basis of the outside dimensions of the building on each floor, but exclusive of nonliving areas, such as garages, breezeways, porches, attics and basements or any portions with less than five (5) feet of head room.

SEC. 16-5-5 LOT AREA AND WIDTH.

(a) **Minimums Required.**

No building shall be erected on a lot of less area or of minimum average width less than hereinafter specified by the regulations of the district in which such building is located, except where said lot is an existing lot of record which was previously divided.

(b) **Lot Area; How Measured.**

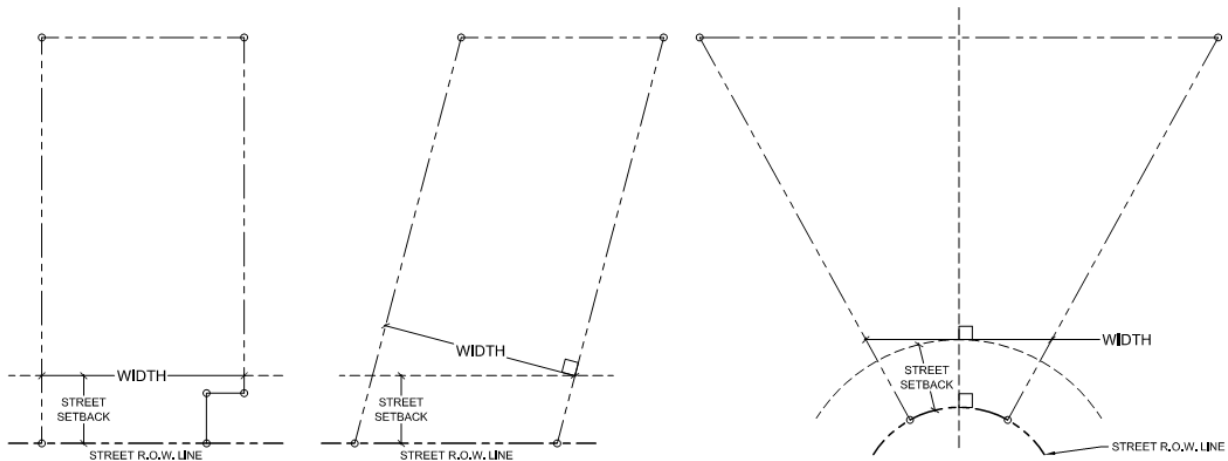
All lot area requirements are measured exclusive of any highway right-of-way and all street yard setbacks are measured from the outer limit of the highway right-of-way or private road easement.

(c) **Width; How Measured.**

Lot width shall mean the width of a parcel of land measured at the rear of the specified street yard. On all parcels where parallel side lot lines are not perpendicular to the street right-of-way line, such lot width shall be determined by measuring along a line which is perpendicular to the side lot lines and begins at a point on the side lot line that is at the specified street yard setback distance. For parcels with non-parallel side lot lines, lot width shall be measured at the street yard setback distance along a line that is perpendicular to a line which begins at the center of the lot at a point on the street right-of-way line and is perpendicular to such right-of-way line or perpendicular to the tangent at such point in the case of a curved right-of-way.

(d) **Reduction.**

No lot area shall be reduced by any means so as to create a lot of less than the required size or so that the existing offsets, setbacks, open space or lot area would be reduced below that required by the regulations for the district in which such lot is located.



SEC. 16-5-6 SEWER AND WATER SERVICE REQUIRED.

(a) **Definitions.**

- (1) **District.** Caledonia Sewer Utility District No. 1, and/or Caledonia Water Utility District No. 1.
- (2) **Urban Service Area.** The boundaries of the Sanitary Sewer Service Area for the City of Racine and Environs as set forth by the Southeast Wisconsin Regional Planning Commission in the most recent edition of Community Assistance Planning Report No. 147, and approved or requested amendments thereto,
- (b) **Municipal Sewer and Water Service Required.** All new buildings for proposed uses within the District's Urban Service Area shall be served by sewer and water facilities owned and operated by the District.
- (c) **Modifications or Waivers.** Any request for modification or waiver of the above provisions shall be made and considered in accordance with Section 14-3-1(k) of the Village's Code of Ordinances. In considering a modification or waiver request, the Plan Commission and Village Board shall also consider the criteria set forth by Resolution of the Village Board.

SEC. 16-5-7 SITE RESTRICTIONS.

- (a) Parcels of land abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.
- (b) A buffer yard shall be created and maintained around all business and manufacturing districts which abut upon residential districts and which are adjacent to freeways and limited access arterial streets and highways which abut upon residential districts. The Plan Commission may also require a buffer yard around business and industrial districts abutting park and institutional districts. Buffer yards shall be a minimum of 20 feet in width; shall be in addition to the required street yards, side yards, and rear yards; and shall screen business or manufacturing uses from adjoining lands in such a manner that:
 - (1) If the buffer yard is composed entirely of plant materials, it shall be of sufficient initial depth and height and of such varieties as to provide adequate visual screening within no more than two years and during all seasons of the year.
 - (2) Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side, and all walls and fences shall be maintained in a structurally sound and attractive condition. Any wall or fence shall be not less than four (4) feet nor more than six (6) feet in height.
 - (3) All landscaping shall be maintained by the owner or operator to the satisfaction of the Zoning Administrator or a designee.

(4) Where the land adjacent to the buffer yard is a parking lot, the buffer yard shall be sufficiently opaque to prevent the penetration of headlight glare. Overhead lighting installed in or adjacent to a buffer yard shall not throw any rays onto adjacent residential properties.

(5) No signs shall be permitted on or in any part of the buffer yard.

DRAFT

CHAPTER 6
Zoning Districts Established

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16-6-1 Zoning Districts Established

- (a) GENERAL: The Regulations of the various Sections of this Code are made specifically applicable to each individual district as hereinafter set forth in the Individual District sections of this Code.
- (b) Format of District Regulations and Summary
- (1) Basic Districts: All property in the Village has been placed on the basic districts created for the purpose of establishing the general pattern of intended land use consistent with the General Plan for Comprehensive Development.
 - (2) Overlay Districts: Overlay of "floating" districts are also established which provide for the possibility of superimposing upon a basic district certain additional permissive uses and regulatory standards applicable thereto without disturbing the underlying basic district regulations. The basic intent is similar to that upon which conditional use grants are premised and in effect represent the granting of specifically defined special use rights in specifically defined areas.
 - (3) Planned Unit Development Districts: The Planned Unit Development District is intended to allow for greater freedom, imagination, and flexibility in the development of land while ensuring substantial compliance to the intent of the normal district regulations of this ordinance. These districts consist of subdivisions, commercial, industrial, and mixed use land uses.
 - (4) Organization of District Regulations: For convenience and readability the uses as permitted in each district and the supplementary regulations thereto are presented in a summary tabular form consisting of the following:
 - a. A statement of intent interpreting the intended purpose of the specific district classification.
 - b. The specific numeric requirements of the provisions of this Code made applicable to the district. In case of an Overlay district the requirements listed apply to the uses permitted by virtue of the overlay and do not alter the application of the underlying district regulations to the use permitted therein.
 - c. A list of permitted, accessory, and conditional uses with a reference to related provisions of the Ordinance.
- (c) BASE DISTRICTS
- (1) Agricultural District
 - a. A-1 Agricultural District
 - (2) Single-Family Residential Districts
 - a. R-1 Country Estate District
 - b. R-2 Single Family Residential District
 - c. R-3 Single Family Residential District
 - d. R-4 Single Family Residential District
 - e. R-5 Single Family Residential District
 - (3) Multi-Family Residential Districts
 - a. RD-1 Two-Family Residential District
 - b. RM-1 Multi-Family Residential District
 - (4) Commercial Districts
 - a. B-1 Neighborhood Business District
 - b. B-2 Community Business District
 - c. B-3 Highway Business District
 - (5) Industrial Districts
 - a. M-1 Light Manufacturing and Office District
 - b. M-2 General Manufacturing District

- c. M-3 Heavy Manufacturing District
- d. M-4 Quarrying District
- (6) Institutional & Park Districts
 - a. I-1 Institutional District
 - b. P-1 Park District
- (7) Conservation District
 - a. C-1 Resource Conservation District

(d) OVERLAY DISTRICTS

- (1) The following overlay districts are created:
 - a. SSO Structural Setback Overlay District
 - b. NSO Non-Structural Setback Overlay District
 - c. SWO Shoreland-Wetland Overlay District
 - d. APO Airport Protection Overlay District

(e) PLANNED UNIT DEVELOPMENT DISTRICTS

- (1) New Planned Development Districts are created as they are approved by the Village and are notated as "PUD-" Planned Unit Developments along with the corresponding number in which they were approved (ex. PUD-1).

(f) DISTRICT BOUNDARIES

- (1) Boundaries of the districts, except for the floodplain districts, structural and nonstructural districts, are hereby established as shown on a series of maps entitled "Zoning Maps, Village of Caledonia, Wisconsin," dated to correspond with their adoption by the Village, as amended, which accompany and are a part of this chapter. Unless otherwise noted on the zoning map, such boundaries shall be construed to follow: corporate limits; U.S. Public Land Survey Lines; lot or property lines; centerlines of street, highways, alleys, easements, and railroad rights-of-way or such lines extended. Where a C-1 resource conservation district is delineated on the zoning district map in a linear form along a perennial or intermittent watercourse, the district boundaries shall be construed to be the following unless otherwise noted on the zoning district map:
 - a. One hundred (100) feet from the ordinary high-water mark of perennial streams.
 - b. Fifty (50) feet from the ordinary high-water mark of intermittent streams.

16-6-2 A-1 Agricultural District

- (a) STATEMENT OF INTENT: This district is intended to provide for agricultural and related uses in rural areas where non-farm residential development is not of significant proportions presently nor anticipated or to be encouraged. Residential development in this district is permitted at densities not to exceed 0.2 dwelling units per net acre.

(b) BASIC REGULATIONS

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
150	5 Acres*	35'**	75'	25'	25'

* If sewerred, lot size can be 40,000 SF for one family dwelling lot & 80,000 SF for two family dwelling lot if created for farm owner family

* Unless reduced by Lot Averaging per Title 14 of Caledonia Codes

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

** Agricultural structures, such as barns, silos and windmills, shall not exceed in height twice their distance from the nearest lot line.

(c) PERMITTED USES BY RIGHT

- (1) General farm practices such as dairying, forestry; grazing, livestock, apiary, and crops.
- (2) One single or one two-family dwelling, whether or not such dwellings are associated with farm operations. The principal structure shall be the residential structure intended to service the parcel on which such residence is located.
- (3) Undeveloped natural resource and open space areas.
- (4) Land within a federal or state agricultural land conservation payment program.
- (5) Livestock and farm animals per Title 7-1-13(3).
- (6) Solar Energy Farm Facility

(a) PERMITTED ACCESSORY USES

- (1) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
- (2) An activity or business operation that is an integral part of or incidental to, an agricultural use.
- (3) Any other use that the *Department of Agriculture, Trade and Consumer Protection* (DATCP), by rule, identifies as an agricultural use.
- (4) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in paragraph (1) or (3), that employs no more than four (4) full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
- (5) Accessory structures may be permitted in the agricultural district prior to the presence of the principal structure provided that the parcel on which the accessory structure will be located is ten (10) contiguous acres in size or larger, the accessory structure is intended for an agricultural use, the proposed accessory structure meets the setback requirements needed for a principal structure in that district, and the accessory structure is at least one hundred (100) feet from any existing residence on abutting parcels.
- (6) Not more than one (1) roadside stand on anyone (1) farm not exceeding 200 square feet in area for the sale of farm products produced on the premises shall be permitted as an accessory use.

(e) PERMITTED USES BY CONDITIONAL USE PERMIT

- (1) Private Utility Installations (Principal structures not less than 100' from residential district lot line)
- (2) Animal Hospitals (Lot area 3+ Acres and Principal Structures not less than 100' from a residential district)
- (3) Commercial Egg Production
- (4) Pea vineries, creameries and condenseries
- (5) Commercial Raising of Animals such as dogs, foxes, goats, mink, pigs, and rabbits (must meet W.S.A. § 91.01(1))
- (6) Commercial Grain and Seed Operations
- (7) Sod Farms
- (8) Airstrips
- (9) Storage, parking, and maintenance of vehicles and equipment (600' from residential districts along with screening approved by the Plan Commission)
- (10) Colleges; universities; hospitals; sanitariums; religious, charitable, penal and correctional institutions; cemeteries and crematories provided all principal structures and uses are not less than fifty (50) feet from any lot line.
- (11) Bed and Breakfast

- (12) Non-farm residences
- (13) Itinerant agricultural laborer's quarters not for rent
- (14) Barn Meeting /Reception Events

16-6-3 R-1 Country Estate District

(a) STATEMENT OF INTENT: This district is intended to provide for high quality detached single family residential development of a semi-rural nature on a large lot, low density basis in areas not intended to be served by municipal sewer facilities. Residential development in this district is permitted at densities not to exceed 0.33 dwelling units per net acre.

(b) BASIC REGULATIONS

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
200*	3 Acres*	35'	75'	75'	30'

* Unless reduced by Lot Averaging per Title 14 of Caledonia Codes

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) PERMITTED USES BY RIGHT

- (1) One single-family dwelling.
- (2) Licensed Community Living Arrangements (serving 8 or fewer persons).

(d) PERMITTED ACCESSORY USES

- (1) Private accessory structures subject to Section 16-10-4.
- (2) Home Occupations per Section 16-10-2.
- (3) Livestock and farm animals per Title 7-1-13(3).
- (4) Renewable energy structures.
- (5) Buildings housing animals shall be located not closer than fifty (50) feet from any lot line.

(e) PERMITTED USES BY CONDITIONAL USE PERMIT

- (1) Private Utility Installations provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
- (2) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums
- (3) Stables, nurseries, orchards, riding trails
- (4) Public and parochial and private elementary and secondary schools and churches.
- (5) Licensed Community Living Arrangements (serving more than 8 persons, but no more than twenty (20) persons).

(f) The sum total of the floor area on all floors of the principal and all accessory buildings shall not exceed twenty (20) percent of the lot area.

16-6-4 R-2 Single Family Residential District

(a) STATEMENT OF INTENT: This district is intended to provide for high quality detached single family residential development of a suburban character on a moderately large lot, moderately low-density basis in areas intended or not intended to be served by municipal sewer facilities. Residential development in this district is permitted at densities not to exceed 1.1 dwelling units per net acre.

(b) BASIC REGULATIONS

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
150	40,000 SF*	35'	50'	50'	15'

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) PERMITTED USES BY RIGHT

- (1) One Single-family dwelling.
- (2) Licensed Community Living Arrangements (serving 8 or fewer persons).

(d) PERMITTED ACCESSORY USES

- (1) Private accessory structures subject to Section 16-10-4.
- (2) Home Occupations per Section 16-10-2.
- (3) Renewable energy structures.

(e) PERMITTED USES BY CONDITIONAL USE PERMIT

- (1) All Private Utility Installations provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
- (2) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums
- (3) Public and parochial and private elementary and secondary schools and churches.
- (4) Licensed Community Living Arrangements (serving more than eight (8) persons, but no more than twenty (20) persons).

(f) The sum total of the floor area on all floors of the principal and all accessory buildings shall not exceed twenty (20) percent of the lot area.

16-6-5 R-3 Single Family Residential District

(a) STATEMENT OF INTENT: This district is intended to provide for a moderately high quality detached single family residential development of a suburban character, but of slightly higher density and permitting smaller lots than the R-2 District and intended to be served by municipal sewer facilities. Residential development in this district is permitted at densities not to exceed 2.2 dwelling units per net acre.

(b) BASIC REGULATIONS

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
100	20,000 SF*	35'	30'	30'	10'

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) PERMITTED USES BY RIGHT

- (1) One Single-family dwelling.
- (2) Licensed Community Living Arrangements (serving 8 or fewer persons).

(d) PERMITTED ACCESSORY USES

- (1) All Accessory Uses per the R-2 District.

- (e) PERMITTED USES BY CONDITIONAL USE PERMIT
 - (1) All Conditional Uses per the R-2 District.
- (f) The sum total of the floor area on all floors of the principal and all accessory buildings shall not exceed thirty (30) percent of the lot area.

16-6-6 R-4 Single Family Residential District

(a) STATEMENT OF INTENT: This district is intended to provide for a moderately high quality detached single family residential development of a suburban character, but of slightly higher density and permitting smaller lots than the R-3 District and intended to be served by municipal sewer facilities. Residential development in this district is permitted at densities not to exceed 3.0 dwelling units per net acre.

(b) BASIC REGULATIONS

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
90	14,520 SF	35'	30'	30'	10'

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

- (c) PERMITTED USES BY RIGHT
 - (1) One Single-family dwelling.
 - (2) Licensed Community Living Arrangements (serving 8 or fewer persons).

(d) PERMITTED ACCESSORY USES

- (1) All Accessory Uses per the R-2 District.

(e) PERMITTED USES BY CONDITIONAL USE PERMIT

- (1) All Conditional Uses per the R-2 District.

(f) The sum total of the floor area on all floors of the principal and all accessory buildings shall not exceed forty (40) percent of the lot area.

16-6-7 R-5 Single Family Residential District

(a) STATEMENT OF INTENT: This district is intended to provide for a moderately high quality detached single family residential development of a suburban character, but of slightly higher density and permitting smaller lots than the R-4 District and intended to be served by municipal sewer facilities. Residential development in this district is permitted at densities not to exceed 4.0 dwelling units per net acre.

(b) BASIC REGULATIONS

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
75	10,890 SF	35'	25'	25'	10'

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) PERMITTED USES BY RIGHT

- (1) One Single-family dwelling.
- (2) Licensed Community Living Arrangements (serving 8 or fewer persons).
- (d) PERMITTED ACCESSORY USES
 - (1) All Accessory Uses per the R-2 District.
- (e) PERMITTED USES BY CONDITIONAL USE PERMIT
 - (1) All Conditional Uses per the R-2 District.
- (f) The sum total of the floor area on all floors of the principal and all accessory buildings shall not exceed fifty (50) percent of the lot area.

16-6-8 RD-1 Two-Family Residential District

- (a) STATEMENT OF INTENT: This district is intended to provide for residential development for 2 family dwellings but of slightly higher density and permitting smaller lots than the RM-1 District. This district shall be found where such development would be compatible with surrounding uses, the density would not create service problems, and in areas served by municipal sewer. Residential development in this district is permitted at densities not to exceed 6.0 dwelling units per net acre.

(b) BASIC REGULATIONS

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
100	14,520 SF	35'	30'	30'	10'

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

- (c) PERMITTED USES BY RIGHT
 - (1) One Two-family dwelling.
 - (2) Licensed Community Living Arrangements (serving 8 or fewer persons).
- (d) PERMITTED ACCESSORY USES
 - (1) All Accessory Uses per the R-2 District.
- (e) PERMITTED USES BY CONDITIONAL USE PERMIT
 - (1) All Conditional Uses per the R-2
 - (2) Rest homes, nursing homes, homes for the aged, clinics and children’s nurseries provided all principal structures and uses are not less than fifty (50) feet from any lot line.
 - (3) Licensed commercial day care centers.

16-6-9 RM-1 Multi-Family Residential District

- (a) STATEMENT OF INTENT: This district is intended to provide for multi-family residential development not to exceed eight (8) dwelling units per structure on a single lot in areas served by municipal sewer.

(b) BASIC REGULATIONS

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
120	16,000 SF*	35'	35'	50'	20'

* Lot Area is shown as the minimum for the district regardless of the amount of units proposed in a structure. The lot area minimum is further defined depending on the proposed units per the following:
 -2,000 SF of lot area required per efficiency unit
 -2,500 SF of lot area required per 1-bedroom unit
 -3,000 SF of lot area required per 2- or more bedroom units
 *14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) **PERMITTED USES BY RIGHT**

- (1) Two-family dwellings
- (2) Multiple-family dwellings up to eight (8) units per structure.
- (3) Licensed Community Living Arrangements (serving fifteen (15) or fewer persons).

(d) **PERMITTED ACCESSORY USES**

- (1) All Accessory Uses per the R-2 District.

(e) **PERMITTED USES BY CONDITIONAL USE PERMIT**

- (1) All Conditional Uses per the R-2.
- (2) Multiple-family dwellings with greater than eight (8) units per structure.
- (3) Rest homes, nursing homes, homes for the aged, clinics and children's nurseries provided all principal structures and uses are not less than fifty (50) feet from any lot line.
- (4) Mobile Home Parks (Restrictions in Conditional Use permit portion of this ordinance)
- (5) Licensed Community Living Arrangements (serving sixteen (16) or more persons).

16-6-10 B-1 Neighborhood Business District

(a) **STATEMENT OF INTENT:** This district is intended to provide for individual or small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood and the character, appearance and operation of which are compatible with the character of the surrounding area. Outdoor display or storage of product and merchandise are prohibited.

(b) **BASIC REGULATIONS**

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
75	15,000 SF*	35'	25'	25'*	10'*

*Side and rear setbacks shall not be less than thirty (30) feet to a residential, institutional, or park district line, and subject to landscaped buffer requirements in Section 16-5-7.

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) **PERMITTED USES BY RIGHT**

- (1) Retail establishments selling and storing product and merchandise
- (2) Professional Offices
- (3) Restaurants
- (4) Financial Institutions
- (5) Churches
- (6) Personal Service Establishments
- (7) State Licensed Massage Therapy
- (8) State Licensed Tattoo Piercing Studio

- (d) **PERMITTED ACCESSORY USES**
 - (1) Uses incidental with the operation of the business subject to Plan Commission approvals.
 - (2) Off-street parking and loading areas in conjunction with the operation of the business.
 - (3) Renewable energy structures attached to principal structure.
- (e) **PERMITTED USES BY CONDITIONAL USE PERMIT**
 - (1) Residential quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.
 - (2) Licensed commercial day care centers.
 - (3) Pet Grooming
 - (4) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
 - (5) Private Utility Installations provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
- (f) **BUILDING AREA**
 - (1) The maximum building floor area shall be 5,000 square feet
 - (2) The sum total of the floor area on all floors of the principal building and all accessory buildings shall not exceed forty (40) percent of the lot area.

16-6-11 B-2 Community Business District

- (a) **STATEMENT OF INTENT:** This district is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices and service establishments serving the daily needs of the surrounding local community area that offer a wider range of retail products and services that are provided in the B-1 District.

(b) **BASIC REGULATIONS**

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
75	20,000 SF*	35'	25'	25'*	10'*

*Side and rear setbacks shall not be less than thirty (30) feet to a residential, institutional, or park district line, and subject to landscaped buffer requirements in Section 16-5-7.

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

- (c) **PERMITTED USES BY RIGHT**
 - (1) All uses permitted by right in the B-1 District
 - (2) Liquor Stores
 - (3) Personal Service Establishments
- (d) **PERMITTED ACCESSORY USES**
 - (1) Uses incidental with the operation of the business subject to Plan Commission approvals.
 - (2) Off-street parking and loading areas in conjunction with the operation of the business.
 - (3) Renewable energy structures attached to principal structure
- (e) **PERMITTED USES BY CONDITIONAL USE PERMIT**
 - (1) All conditional uses as found in the B-1 District.

- (2) Funeral Homes (provided all principal structures and uses are not less than twenty-five (25) feet from any lot line)
- (3) Drive-in establishments for food and beverage

(f) **BUILDING AREA**

- (1) The sum total of the floor area on all floors of the principal building and all accessory buildings shall not exceed forty (40) percent of the lot area.

16-6-12 B-3 Highway Business District

(a) **STATEMENT OF INTENT:** This district is intended to provide for the orderly and attractive grouping at appropriate locations of commercial activities of a more general retail and wholesale nature, and of the office and service facilities serving a larger community trade area. The size and location of such districts shall be based upon relationship of the community need and economy.

(b) **BASIC REGULATIONS**

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
200	40,000 SF*	45'	40'	40'	10'

*Side and rear setbacks shall not be less than thirty (30) feet to a residential, institutional, or park district line, and subject to landscaped buffer requirements in Section 16-5-7.

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) **PERMITTED USES BY RIGHT**

- (1) All uses permitted by right in the B-2 District
- (2) Animal Hospitals (Lot area 3+ Acres and Principal Structures not less than 100' from a
- (3) Building Material & Product Sales
- (4) Taxidermy

(d) **PERMITTED ACCESSORY USES**

- (1) Uses incidental with the operation of the business subject to Plan Commission approvals.
- (2) Off-street parking and loading areas in conjunction with the operation of the business.
- (3) Renewable energy structures.

(e) **PERMITTED USES BY CONDITIONAL USE PERMIT**

- (1) All conditional uses as found in the B-2 District.
- (2) Landscape Contractors and Yards
- (3) Clubs, Fraternities, and Lodges
- (4) Commercial Recreation Facilities
- (5) Public passenger transportation terminals (not less than 100' from residential district boundary)
- (6) Vehicle (including boats and trailers) sales, service, washing, gas, and repair stations, garages, vehicle wash, taxi stands and public parking lots (provided all gas pumps are not less than thirty (30) feet from any side or rear lot line and twenty-five (25) feet from any existing or proposed street line).
- (7) Drive-In Theatres (provided that a planting screen at least twenty-five (25) feet wide is created along any side abutting a residential district and no access is permitted to or within one thousand (1,000) feet of an arterial street)
- (8) Motels and Hotels

- (9) Self-service storage facilities (mini-warehouses) and yards (The maximum lot coverage by structures for a self-service storage facility shall not exceed fifty (50) percent, and such facility shall not exceed fifteen (15) feet in height and shall meet the setbacks for the district in which it is located)
 - (10) Microbreweries, wineries, distilleries.
- (f) The sum total of the floor area on all floors of the principal building and all accessory buildings shall not exceed forty (40) percent of the lot area.

16-6-13 M-1 Light Manufacturing District

(a) STATEMENT OF INTENT: This district is intended to provide for the orderly and attractive grouping in appropriately landscaped grounds of a mix of low-impact (of a limited nature and size) manufacturing, industrial, wholesaling, limited warehousing, research and development, engineering, and testing related service facilities and uses which occur within enclosed buildings, and which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reason of noise, dust, smoke, odor, traffic, physical appearance or other similar factor; and to establish such regulatory controls as will reasonably insure compatibility with the surrounding area in this respect.

(b) BASIC REGULATIONS

Lot Width	Lot Area	Building Height	Access. Building Height	Street Setback	Rear Setback	Side Setback
150	43,560 SF *	50'	30'	25'	25'*	15'*

*Side and rear setbacks shall not be less than thirty (30) feet to a residential, institutional, or park district line, and subject to landscaped buffer requirements in Section 16-5-7.

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) PERMITTED USES BY RIGHT

- (1) General and Professional Offices
- (2) Schools
- (3) Tool and Dye
- (4) Commercial Greenhouses
- (5) Warehousing
- (6) Light Manufacturing
- (7) Laboratories (research and product development, engineering and testing)

(d) PERMITTED ACCESSORY USES

- (1) Uses incidental with the operation of the business subject to Plan Commission approvals.
- (2) Off-street parking and loading areas in conjunction with the operation of the business.
- (3) Renewable energy structures attached to principal structure.

(e) PERMITTED USES BY CONDITIONAL USE PERMIT

- (1) Public passenger transportation terminals ((not less than 100' from residential district boundary), such as heliports, bus and rail depots, except airports, airstrips and landing fields (not less than 100' from residential and on 20 acres+).
- (2) Commercial service facilities such as restaurants and fueling stations
- (3) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.

- (4) Private Utility Installations provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
 - (5) Self-Service Storage Facilities, mini-warehouses (The maximum lot coverage by structures for a self-service storage facility shall not exceed fifty (50) percent, and such facility shall not exceed fifteen (15) feet in height and shall meet the setbacks for the district in which it is located)
 - (6) Micro-breweries, distilleries, and wineries
- (f) **BUILDING AREA**
- (1) The sum total of the floor area on all floors of the principal building and all accessory buildings shall not exceed sixty (60) percent of the lot area.

16-6-14 M-2 General Manufacturing District

(a) **STATEMENT OF INTENT:** This district is intended to provide for the same type of manufacturing and industrial development as in the M-2 District, but in those areas where the relationship to surrounding land use would create fewer problems of compatibility and would not necessitate as stringent regulatory controls.

(b) **BASIC REGULATIONS**

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
200 feet	43,560 SF*	50'	40'	25'***	20'***

*Side and rear setbacks shall not be less than thirty (30) feet to a residential, institutional, or park district line, and subject to landscaped buffer requirements in Section 16-5-7.

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) **PERMITTED USES BY RIGHT**

- (1) All M-1 permitted uses.
- (2) Manufacturing & Packaging Facilities
- (3) Food Product Facilities
- (4) Wholesalers & Distributors

(d) **PERMITTED ACCESSORY USES**

- (1) Uses incidental with the operation of the business subject to Plan Commission approvals.
- (2) Off-street parking and loading areas in conjunction with the operation of the business.
- (3) Renewable energy structures attached to principal structure.

(e) **PERMITTED USES BY CONDITIONAL USE PERMIT**

- (1) All M-1 conditional uses.
- (2) Airports and landing fields (not less than 100' from residential and on 20 acres+).
- (3) Self-storage facilities (The maximum lot coverage by structures for a self-service storage facility shall not exceed fifty (50) percent, and such facility shall not exceed fifteen (15) feet in height and shall meet the setbacks for the district in which it is located)
- (4) Recycling drop-off sites
- (5) Animal Hospitals (Lot area 3+ Acres and Principal Structures not less than 100' from a residential district)
- (6) Contractor's office with outdoor storage of equipment and materials.

- (f) **BUILDING AREA**
- (1) The sum total of the floor area on all floors of the principal building and all accessory buildings shall not exceed eighty (80) percent of the lot area.

16-6-15 M-3 Heavy Manufacturing District

- (a) **STATEMENT OF INTENT:** This district is intended to provide for the same type of manufacturing and industrial development as in the M-2 District, but in those areas where the relationship to surrounding land use may create problems of compatibility and may necessitate as stringent regulatory controls.

(b) **BASIC REGULATIONS**

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
200 feet	1 acre*	60'	40'	30'*	25'**

**Side and rear setbacks shall not be less than thirty (30) feet to a residential, institutional, or park district line, and subject to landscaped buffer requirements in Section 16-5-7.

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) **PERMITTED USES BY RIGHT**

- (1) All M-2 permitted uses.
 (2) Adult establishment uses per Chapter 16 of this Ordinance.

(d) **PERMITTED ACCESSORY USES**

- (1) Uses incidental with the operation of the business subject to Plan Commission approvals.
 (2) Off-street parking and loading areas in conjunction with the operation of the business.
 (3) Renewable energy structures attached to principal structure.

(e) **PERMITTED USES BY CONDITIONAL USE PERMIT**

- (1) All M-2 conditional uses.
 (2) Sanitary landfills and their related accessory uses
 (3) The following subject to being at least six hundred (600) feet from residential and park and institutional districts:
 a. Manufacturing of abrasive materials
 b. Storage and/or manufacturing of explosives and flammables
 c. Beverage Bottling

(f) **BUILDING AREA**

- (1) The sum total of the floor area on all floors of the principal building and all accessory buildings shall not exceed sixty (60) percent of the lot area.

16-6-16 M-4 Quarrying District

- (a) **STATEMENT OF INTENT:** This district is intended to provide an environment capable of addressing the unique concerns associated with extractive operations.

(b) **BASIC REGULATIONS**

Lot Width	Lot Area	Building Height	Extractive Setbacks	Misc. Setbacks
As Necessary*	As Necessary*	45'	0'-200'*	100'***

*Lot width and size is as necessary to comply with all district regulations subject to Plan Commission approval.

**All excavations shall be at least 200' from a right-of-way or property line; 200-foot excavation setback can be reduced to 0' if approved by Plan Commission if a common lot line is shared with another mineral extraction operation.

***All accessory uses such as offices, other structures, parking areas, and stockpiles shall be at least 100' from any right-of-way line or property line.

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) PERMITTED USES BY RIGHT

- (1) Mineral extraction operations and concrete and concrete products manufacturing (The manufacture of concrete and concrete products, including concrete and asphalt batch plants, may occur on a parcel only during the duration of the on-site mineral extraction activity).
- (2) Nonmetallic mining and associated extractive operations pursuant to Chapter NR135 Wisconsin Administrative Code and subject to Title 7 Chapter 11 of Caledonia codes.

(d) PERMITTED ACCESSORY USES

- (1) Uses incidental with the operation of the business subject to Plan Commission approvals.
- (2) Renewable energy structures attached to principal structure.

(e) PERMITTED USES BY CONDITIONAL USE PERMIT

- (1) All M-3 District Conditional Uses

16-6-17 I-1 Institutional District

- (a) STATEMENT OF INTENT: This district is intended to specifically define areas where churches, schools, libraries, and other uses of a public or institutional nature shall be permitted subject to such regulatory standards as will ensure compatibility with the surrounding uses an area.

(b) BASIC REGULATIONS

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
100	20,000 SF*	50'***	40	40	40

*Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) PERMITTED USES BY RIGHT

- (1) Public and Private Institutional Uses
- (2) Schools
- (3) Health Facilities
- (4) Churches

- (d) **PERMITTED ACCESSORY USES**
 - (1) Uses incidental with the operation of a principal or conditional use subject to Plan Commission approvals.
- (e) **PERMITTED USES BY CONDITIONAL USE PERMIT**
 - (1) Airports and Landing Fields (not less than 100' from residential and on 20 acres+)
 - (2) Recycling Drop-Off Sites (see conditional use grant section for restrictions)
 - (3) Licensed Commercial Day Care Centers
 - (4) Cemeteries

16-6-18 P-1 Parkland & Recreational District

- (a) **STATEMENT OF INTENT:** This district is intended to provide areas where outdoor recreational needs of the citizens can be met. This district is intended to specifically define areas where park and recreation uses of a public or private nature shall be permitted subject to such regulatory standards as will insure compatibility with the surrounding uses of an area.

(b) **BASIC REGULATIONS**

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
100	15,000 SF*	35'	50'	50'	50'

*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) **PERMITTED USES BY RIGHT**

- (1) Parkland Recreation Uses

(d) **PERMITTED ACCESSORY USES**

- (1) Uses incidental with the operation of a principal or conditional use subject to Plan Commission approvals.

(e) **PERMITTED USES BY CONDITIONAL USE PERMIT**

- (1) The following private recreational uses: assembly structures, golf facilities, campgrounds, swimming pools athletic fields, lodges, archery and firearm ranges, zoological and botanical gardens.
- (2) Recreational based motorized off-road vehicle trails.

16-6-19 C-1 Resource Conservation District

- (a) **STATEMENT OF INTENT:** This district is intended to provide areas where open space and limited outdoor recreational needs of the citizens can be met. This district is intended to specifically define areas where conservation uses of a public or private nature shall be permitted subject to such regulatory standards as will ensure compatibility with the surrounding uses an area.

(b) **BASIC REGULATIONS**

Lot Width	Lot Area	Building Height	Street Setback	Rear Setback	Side Setback
As Necessary*	As Necessary*	As Allowed**	As Allowed**	As Allowed**	As Allowed**

*Lot width and size is as necessary to comply with all district regulations subject to Plan Commission approval.

**Structures are not permitted unless accessory to a principal or conditional use as approved by the Planning Commission
*14-1-5(g)(3) — all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres.

(c) **PERMITTED USES BY RIGHT**

(1) Public and private passive recreation and open space uses including fishing; flood overflow and floodwater storage; hunting; pedestrian and equestrian trails; preservation of scenic, historic and scientific areas; public fish hatcheries, soil and water conservation practices; sustained yield forestry; stream bank and lakeshore protection; water retention ponds; and wildlife areas.

(d) **PERMITTED ACCESSORY USES**

(1) Uses incidental with the operation of a principal or conditional use subject to Plan Commission approvals.

(e) **PERMITTED USES BY CONDITIONAL USE PERMIT**

(1) The following Public and private passive recreation and open space uses including Boating, game farms, grazing, orchards, shooting preserves, swimming, truck farming, utilities, water measurement and water control facilities, and wild crop harvesting (These above uses shall not involve drainage; dumping; filling; tilling; mineral, soil, or peat removal; or any other use that would substantially disturb or impair the natural fauna, flora, watercourses, water regimen or topography).

16-6-20 SSO Structural Setback Overlay District

STATEMENT OF INTENT: The SSO structural overlay district is intended to be used to protect people and property from shore erosion damage in Lake Michigan shoreland areas which are recommended to be protected by properly designed, constructed and maintained shore protection structures.

Compliance with the structural setback distances set forth is assumed to provide reasonable protection from further bluff recession if the shore protection structures are properly designed, constructed, and maintained. However, even proper protection structures meeting all of the required criteria may fail during major storm events or other natural occurrences. These regulations do not guarantee or warrant that development in compliance with its terms will be protected from all erosion damage. Reliance on these regulations shall not create liability on the part of the board of trustees, its agencies or employees for any erosion damages that may occur as a result of reliance upon, and conformance with, this chapter.

(b) **APPLICATION:** The SSO structural overlay district applies to those Lake Michigan shoreline areas which are located south of the northern one-half of Township 4 North, Range 23 East, Section 8, in the Village of Caledonia. In addition, the SSO district applies to the northernmost one thousand three hundred (1,300) feet of Lake Michigan shoreline in Section 6 of the Village of Caledonia, Township 4 North, Range 23 East, which is covered by fly ash deposits. All new development within this overlay district shall be adequately protected by properly designed, constructed, and maintained shore protection structures or measures. Such structural protection structures or measures shall meet the criteria established in Recommendations of the Racine County Technical Subcommittee on Shoreland Development Standards to the Racine County Land Use Committee, 1982.

- (c) **BOUNDARIES:** Boundaries of the structural and nonstructural setback overlay districts shall be determined as follows. The boundaries of the SSO structural setback overlay district shall be determined through the use of the following equation establishing a setback distance from the existing Lake Michigan bluff edge:
- (1) SSO structural setback overlay district distance = Horizontal distance required to achieve one on two and one-half stable bluff slope + Minimum facility setback distance.
- (d) **STABLE SLOPE:**
- (1) In delineating the SSO structural setback overlay district, the required recession or regrading of the bluff needed to form a stable slope, plus a minimum facility setback distance, shall be computed. The provision of the stable slope provides protection against further major bluff recession, as long as the shore protective structures are effective. This stable slope distance is measured from the existing bluff edge. The minimum facility setback distance is then measured from the edge of the regraded bluff needed to form a stable slope. The minimum facility setback distance provides a safety factor against possible failure of the protective structures during extreme storm events or other natural occurrences and provides a buffer area which helps protect the regraded bluff edge from excessive surface water runoff and from the potential bluff instability which could be caused by the additional weight of buildings being placed close to the bluff edge. In addition, the minimum facility setback distance provides an area which may be effectively utilized to facilitate surface water and subsurface water drainage and control.
- (2) The distance required to achieve a one (1) on two and one-half (2½) stable slope is set forth in Table 12, page 65, of SEWRPC Community Assistance Planning Report No. 86, A Lake Michigan Coastal Erosion Management Study for Racine County, Wisconsin, and shall be used to determine the stable slope distance. Minimum facility setback distances measured from the edge of the net stable slope distance shall one hundred (100) feet for all structures. The minimum setback distance may be reduced for public utilities, public recreational facilities, and single family residential units in areas of existing facility development to be at least the average distance from the edge of the net stable slope distance to adjacent principal structures located on abutting parcels (excluding public right-of-ways and easements), although the minimum setback distance shall not be less than fifty (50) feet from the edge of the net stable slope distance. If an abutting parcel is vacant, a setback of one hundred (100) feet will be assumed for purposes of averaging.
- (f) **STRUCTURES PROHIBITED:** New, permanent residential, institutional, commercial, industrial and agricultural structures designed for human habitation, or the confinement of animals are prohibited in the SSO structural setback overlay district.
- (g) **PERMITTED USES BY RIGHT**
- (1) Surface and subsurface water drainage and control; general farming activities, not including the erection of structures; open space; outdoor recreation; yard; storage of portable equipment and supplies; accessory buildings such as storage sheds; and minor structures such as driveways, sidewalks, patios and fences.
- (h) **PERMITTED ACCESSORY USES**
- (1) Uses incidental with the operation of a principal or conditional use.
- (i) **PERMITTED USES BY CONDITIONAL USE PERMIT**
- (1) Tree cutting and shrubbery clearing, land disturbance and earth movements, and shore protection structures.

16-6-21 NSO Non-Structural Setback Overlay District

- (a) **STATEMENT OF INTENT:** The NSO nonstructural setback overlay district is intended to be used to protect people and property from shore erosion damage in Lake Michigan shoreland areas which are not protected by properly designed, constructed, and maintained shore protection structures.

The nonstructural setback distance provisions for the Lake Michigan shoreland are considered the minimum reasonable requirements necessary to reduce bluff recession damages to facilities for an anticipated fifty-year hazard period. These requirements are based upon engineering, geological, and other scientific studies and principles. Higher rates of erosion may occur. Erosion rates may be increased by natural causes such as major storms or high lake levels or by manmade causes such as construction activities.

- (b) **APPLICATION:** The NSO nonstructural setback overlay district applies to those Lake Michigan shoreline areas which are located north of the southern one-half of Township 4 North, Range 23 East, Section 8, Village of Caledonia, except for the northernmost one thousand three hundred (1,300) feet of Lake Michigan shoreline in Section 6 of the Village of Caledonia, which is covered by fly ash deposits.
- (c) **BOUNDARIES:** Boundaries of the structural and nonstructural setback overlay districts shall be determined as follows. The boundaries of the NSO nonstructural setback overlay district shall be determined through the use of the following equation establishing a setback distance from the existing Lake Michigan bluff edge:
- (1) NSO nonstructural setback overlay district distance = Horizontal distance required to achieve one on two and one-half stable bluff slope + (Average annual bluff recession rate × 50 years) + Minimum facility setback distance.
- (d) **STABLE SLOPE:**
- (1) In delineating the NSO nonstructural setback overlay district, the expected bluff recession over a fifty-year period, plus the required recession, or re-grading the bluff needed to form a stable slope, plus a minimum facility setback distance from the regraded bluff edge, shall be computed. The NSO district thus includes those Lake Michigan shoreland areas which, based on historical bluff recession rates, are expected to be lost due to bluff recession, and the formation of a stable slope, over a fifty-year period, plus a minimum facility setback distance.
- (2) The distance required to achieve a one (1) on two and one-half (2½) stable slope is set forth in Table 12, page 65, of SEWRPC Community Assistance Planning Report No. 86, A Lake Michigan Coastal Erosion Management Study for Racine County, Wisconsin, and shall be used to determine the stable slope distance. Minimum facility setback distances measured from the edge of the net stable slope distance shall be as follows:
- a. One hundred (100) feet for all structures except public utilities; public recreational facilities and single-family residential units.
- b. Fifty (50) feet for public utilities, public recreational facilities, and single-family residential units. The minimum setback distance shall be reduced in areas of existing facility development to the average distance from the regraded bluff edge to adjacent structures within one hundred (100) feet of the structure, although the minimum setback distance shall not be less than fifty (50) feet from the edge of the net stable slope distance.
- (e) **MODIFICATIONS:**
- (1) The calculated NSO nonstructural setback overlay district distance may be modified upon submittal by an applicant or property owner of acceptable engineering analyses which

indicate that the actual bluff recession rate is different than as set forth in SEWRPC Community Assistance Planning Report No. 86, that the required distance for a stable slope is different, or that the height of the bluff is different than the height presented in the report.

- (f) **STRUCTURES PROHIBITED:** New, permanent residential, institutional, commercial, industrial and agricultural structures designed for human habitation, or the confinement of animals are prohibited in the NSO nonstructural setback overlay district.
- (g) **PERMITTED USES BY RIGHT**
 - (1) General farming activities, not including the erection of structures; open space, outdoor recreation; yard; storage of portable equipment and supplies; accessory buildings such as storage sheds; and minor structures such as driveways, sidewalks, patios and fences.
- (h) **PERMITTED ACCESSORY USES**
 - (1) Uses incidental with the operation of a principal or conditional use.
- (i) **PERMITTED USES BY CONDITIONAL USE PERMIT**
 - (1) Tree cutting and shrubbery clearing, land disturbance and earth movements, shore protection structures, and the placement of structures or buildings which may be relocated at a cost not to exceed 30 percent of the equalized value of the structure.

16-6-22 SWO Shoreland Wetland Overlay District

- (a) The restrictions of the Shoreland Wetland Overlay District are outlined in Section 15 of this ordinance.

16-6-23 APO Airport Protection Overlay District

- (a) The airport protection overlay district is intended to maintain the existing utility of any airport in the county and prevent further encroachment or obstruction of the airspace necessary for safe landing, takeoff and maneuvering of aircraft. It is intended to protect any airport that is open for use by the general public. It is hereby declared that obstructions to the airspace required for the safe landing, takeoff and maneuvering of aircraft and that land uses which interfere with the safe operation of aircraft, have the potential for endangering lives and the property of users of the county airports and of those who occupy land in their vicinity.
- (b) It is therefore determined that the public safety and general welfare require the prohibition of hazardous land use and obstructions to the airspace necessary for safe air operations. So far as is practical, the provisions of this division regarding airport protection have been structured and modeled in accordance with Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace. The initial airport covered by the APO district is the Racine Commercial Airport, which has been designated by the federal aviation administration as an official reliever airport for General Mitchell Field and O'Hare International Airport in the category of general aviation.
- (c) **Prohibited Uses**
 - (1) No use may be made of any lands within the airport protection overlay district which will result in or cause any of the following:
 - (1) Interference with navigational signals or radio communications between airport and aircraft.

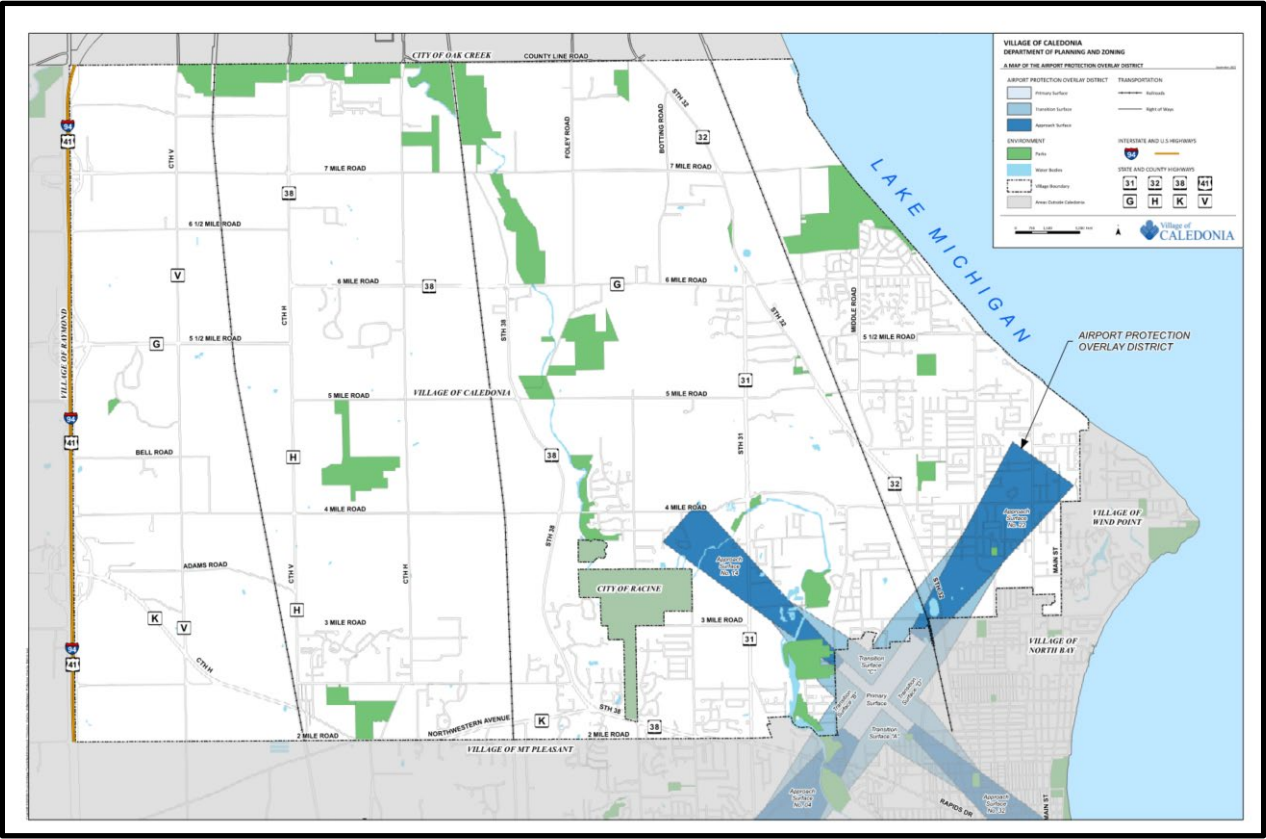
- (2) Make it difficult for pilots to distinguish between airport lights and others by maintaining lights which resemble airport marker or navigational lights or aids.
 - (3) Result in causing glare in the eyes of pilots using the airport.
 - (4) Impair visibility from aircraft using the airport.
 - (5) Create bird strike hazards by creating bodies of water which attracts birds; or
 - (6) Otherwise interfere with the landing, takeoff or maneuvering of aircraft using or intending to use the airport.
- (2) Use of any land in the airport protection overlay district for solid waste disposal is prohibited.”
 - (3) This section shall not be construed as prohibiting the tilling of soil in normal farming operations or the use of land for retention of stormwater for short periods not to exceed forty-eight (48) hours.
- (d) Protected Surfaces
The following surfaces in the Airport Overlay District shall be protected:
- (1) Primary surface. A surface whose elevation at any point is the same as the elevation at the nearest point on a runway and whose horizontal projection is bounded as follows: Begin at a point on the Section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 3 North, Range 23 East which is located S88°07'45"W 35.56 feet from the southeast corner of said Section 31; run thence S35°25'36"W 329.76 feet; thence N54°34'24"W 1,000.00 feet; thence N35°25'36"E 1,899.83 feet; thence N48°11'17"W 1,791.55 feet; thence N41°48'43"E 500.00 feet; thence S48°11'17"E 1,735.00 feet; thence N35°25'36"E 3,067.76 feet; thence S54°34'24"E 1,000.00 feet; thence S35°25'36"W 3,176.66 feet; thence S48°11'17"E 1,667.09 feet; thence S41°48'43"W 500.00 feet; thence N48°11'17"W 1,611.14 feet; thence S35°25'36"W 1,458.16 feet to the point of beginning.
 - (2) Approach Surface No. 04. Commence at a point on the Section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 3 North, Range 23 East, located S88°07'45"W 35.56 feet from the Southeast corner of said Section 31; run thence S35°25'36"W 329.76 feet to the point beginning of this description at elevation 667.20; run thence S26°53'45"W 5,157.06 feet to a point at elevation 817.20; thence S26°53'45"W 4,954.82 feet to a point at elevation 817.20; thence N54°34'24"W 4,000.00 feet to a point at elevation 817.20; thence N43°57'27"E 4,954.82 feet to a point at elevation 817.20; continue thence N43°57'27"E 4,954.82 feet to a point at elevation 817.20; continue thence N43°57'27"E 5,157.06 feet to a point at elevation 667.20; thence S54°34'24"E 1,000 feet to the point of beginning.
 - (3) Approach Surface No. 14. Commence at a point on the East line of Section 31, Township 4 North, Range 23 East, located N01°21'46"W 1,953.40 feet from the Southeast corner of said Section 31; run thence N48°11'17"W 1,649.11 feet to the point of beginning of this description at elevation 668.61; run thence N53°53'55"W 3,768.70 feet to a point at elevation 818.61; continue thence N53°53'55"W 6,281.17 feet to a point at elevation 818.61; thence N41°48'43"E 2,500 feet to a point at elevation 818.61; thence S42°28'39"E 6,281.17 feet to a point at elevation 818.61; continue thence S42°28'39"E 3,768.70 feet to a point at elevation 668.61; thence S41°48'43"W 500.00 feet to the point of beginning.
 - (4) Approach Surface No. 22. Commence at a point on the North-South ¼ line of Section 32, Township 4 North, Range 23 East, located N01°05'11"W 1,715.72 feet from the center of said Section 32; run thence N54°34'24"W 539.97 feet to the point of beginning of this

description at elevation 665.25; run thence N28°18'06"E 5,139.69 feet to a point at elevation 815.25; continue thence N28°18'06"E 4,938.13 feet to a point at elevation 815.25; thence S54°35'24"E 3,500.00 feet to a point at elevation 815.25; thence S42°33'06"W 4,938.13 feet to a point at elevation 815.25; continue thence S42°33'06"W 5,139.69 feet to a point at elevation 665.25; thence N54°34'24"W 1,000.00 feet to the point of beginning.

- (5) Approach Surface No. 32. Commence at a point on the North-South ¼ line of Section 32, Township 4 North, Range 23 East, located N00°47'06"W 194.51 feet from the South ¼ corner of said Section; run thence 53°53'55"W 361.46 feet to the point of beginning of this description at elevation 655.06; run thence S53°53'55"E 3,768.70 feet to a point at elevation 805.06; continue thence 53°53'55"E 6,281.17 feet to a point at elevation 805.06; thence S41°48'43"W 2,500 feet to a point at elevation 805.06; thence N42°28'39"W 6,281.17 feet to a point at elevation 805.06; continue thence N42°28'39"W 3,768.70 feet to a point at elevation 655.06; thence N41°48'43"E 500.00 feet to the point of beginning.
- (6) Transition Surface "A." Commence at a point on the Section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 3 North, Range 23 East, located S88°07'45"W 35.56 feet from the Southeast corner of said Section 31; run thence S35°25'36"W 329.76 feet to the point of beginning of this description at elevation 667.20; run thence S26°53'45"W feet to a point at elevation 817.20; thence N38°37'31"E 5,107.96 feet to a point at elevation 817.20; thence N35°25'36"E 613.87 feet to a point at elevation 809.48; thence S48°11'17"E 437.08 feet to a point at elevation 805.06; thence S58°23'32"E 3,810.27 to a point at elevation 805.06; thence N42°28'39"W 3,768.70 feet to a point at elevation 655.06; thence N48°11'17"W 1,611.14 feet to a point on the primary surface; thence S35°25'36"W 1,787.93 feet to the point of beginning.
- (7) Transition Surface "B." Commence at a point on the East line of Section 31, Township 4 North, Range 23 East; located N01°21'46"W 1,953.40 feet from the Southeast corner of said Section 31; run thence N48°11'17"W 1,649.11 feet to the point of beginning of this description at elevation 668.61; thence S48°11'17"E 1,791.55 feet to a point on the primary surface; thence S35°25'36"W 1,899.83 feet to a point at elevation 667.20; thence S43°57'27"W 5,157.06 feet to a point at elevation 817.20; thence N32°13'41"E 5,107.96 feet to a point at elevation 817.20; thence N35°25'36"E 960.78 feet to a point at elevation 817.96; thence N48°11'17"W 852.50 feet to a point at elevation 818.61; thence N37°59'03"W 3,810.27 feet to a point at elevation 818.61; thence S53°53'55"E 3,768.70 feet to the point of beginning.
- (8) Transition Surface "C." Commence at a point on the East line of Section 31, Township 4 North, Range 23 East, located S01°21'26"E 24.73 feet from the East ¼ corner of said Section 31; run thence N48°11'17"W 1,180.00 feet to the point of beginning of this description at elevation 668.61; run thence N42°28'39"W 3,768.70 feet to a point at elevation 818.61; run thence S58°23'32"E 3,810.27 feet to a point at elevation 818.61; thence S48°11'17"E 561.54 feet to a point at elevation 818.20; thence N35°25'36"E 1,893.70 feet to a point at elevation 815.25; thence N40°03'03"E 5,116.65 feet to a point at elevation 815.25; thence S28°18'06"W 5,139.69 feet to a point at elevation 665.25; thence S35°25'36"W 3,067.76 feet to a point on the primary surface; thence N48°11'17"W 1,735.60 feet to the point of beginning.
- (9) Transition Surface "D." Commence at a point on the North-South ¼ line of Section 32, Township 4 North, Range 23 East located N00°47'06"W 194.51 feet from the South ¼ corner of said Section; run thence N53°53'55"W 361.46 feet to the point of beginning of this description at elevation 655.06; run thence N48°11'17"W 1,667.09 feet to a point on the primary surface; thence N35°25'36"E 3,179.66 feet to a point at elevation 665.25; thence N42°33'06"E 5,139.69 feet to a point at elevation 815.25; thence S30°48'09"W 5,116.65 feet to a point at elevation 815.25; thence S35°25'36"W 2,240.61 feet to a point

at elevation 807.15; thence S48°11'17"E 728.04 feet to a point at elevation 805.06; thence S37°59'03"E 3,810.27 feet to a point at elevation 805.06; thence N53°53'55"W 3,768.70 feet to the point of beginning.

- (e) The overlay district shall encompass the area as identified on the Airport Protection Area Map for illustrations purposes only and as legally described in Sections 16-6-23(d) excluding areas located outside the Village of Caledonia:



CHAPTER 7
Planned Unit Development Districts

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<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
16-7-1	Purpose and Intent		
16-7-2	District and Requirements		
16-7-3	Application Procedure		
16-7-4	Basis For Approval		
16-7-5	Planned Development Districts and Requirements		

16-7-1 PURPOSE AND INTENT

- (1) The PUD planned unit development overlay district, set forth in this division, is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning and diversified location of structures. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic, to provide attractive recreation and open spaces as integral parts of the developments, to enable economic design in the location of public and private utilities and community facilities, and to ensure adequate standards of construction and planning. The PUD overlay district under this division will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic zoning district.
- (2) Permitted: The unified and planned development of a site, in single or corporate ownership at the time of development, may be permitted in a Planned Unit Development District, without the compliance with the specified lot size requirements as stated in Title 14, or without specific compliance to the district regulations as applicable to individual lots, subject to the regulations as hereinafter provided in this Section.

16-7-2 DISTRICT AND REQUIREMENTS

- (a) Size Allowed: For the purpose of this Ordinance all Planned Unit Development Projects shall be classified as follows and be limited to parent parcels of not less than the size indicated:

	Min. Size of District
Residential	10 Acres
Commercial	10 Acres
Industrial	20 Acres
Mixed	20 Acres

- (b) Application of Regulations:
 - (1) Uses and Structures. In addition to the uses permitted in the underlying district any other use may be permitted as hereinafter designated above consistent with the criteria established in the basis for approval below.
 - (2) Individual uses and structures in a Planned Development District need not comply with the specific building setback, height, building size, lot size, and open space requirements of the underlying basic district provided that the spirit and intent of such requirements are

complied with in the total development plan for such project consistent with the criteria as established in the basis for approval below.

- (3) Applicable Underlying Zoning Districts. The PUD Planned Unit Development District may be applied to all zoning districts.
- (4) All PUDs shall be serviced by sanitary sewer other than those PUDs proposed under the Village's subdivision ordinances in Title 14 that may be developed in outside of the sanitary sewer service boundary area.
- (5) Density: For specific project density computation, the allowable maximum unit density shall be determined by dividing the gross area of the planned development (Exclusive of existing public right-of-way or public open space easement) by the square feet per unit or lot as required by the district intended. In the case of mixed-use developments, a separate density calculation shall be computed for each defined use in the development (Ex. On an 80-acre planned development, 40 acres is intended for R-2 uses and 40 acres are intended for R-3 uses; the density computations would be run separately as follows: 1,742,400 square feet / 40,000 square feet per unit for R-2 and 1,742,400 square feet / 20,000 square feet per unit for R-3).

16-7-3 APPLICATION PROCEDURE

- (a) **Petition:** Petition shall be made to the Village by the owner or agent of property proposed for such development, to amend the zoning map by the overlaying of a PUD District in order to permit the application of the provisions of this section to such development. Such petition shall be accompanied by a fee, as from time to time established by the Village Board, and the following information:
 - (1) A statement describing the general character of intended development along with such other pertinent information as may be necessary to a determination that the contemplated arrangement or use makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this ordinance.
 - (2) A general development plan including all applicable items per the Village's Building, Site, and Operation Plan submittal requirements per Chapter 4 of this ordinance. The development plan shall generally show the intended use or uses of land, the dimensions and location of proposed structures and of areas to be reserved for vehicular and pedestrian circulation, parking, public uses such as schools, and playgrounds, parks, landscaping, and other open spaces and architectural drawings and sketches illustrating the design and character of the proposed uses and the physical relationship of the use.
 - (3) Any proposed departures from the standards of development as set forth in the Village zoning regulations.
 - (4) The expected date of commencement, schedule of development by phases, and completion of physical development as set forth in the proposal.
 - (5) Total area to be included in the planned unit development, residential density computations, proposed number of dwelling units, area of open space, population analysis, availability of, or requirements for, municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
- (b) **Public Hearing:** Upon receipt of a petition the Village Board shall cause a public hearing to be held pursuant to Chapter 17 of this Ordinance in front of the Plan Commission.
- (c) **Referral to Plan Commission:** Such petition shall be referred to the Plan Commission and processed as any other petition for zoning change. Upon completion of necessary study and investigation the Plan Commission shall make its recommendation to the Village Board as to the appropriateness

and desirability of the proposed zoning change, the suitability of the building, site and development plans, and any additional conditions which it may feel necessary or appropriate.

16-7-4 BASIS FOR APPROVAL

- (a) Basis for Approval: The Plan Commission in making its recommendations and the Village Board in making its determination shall give consideration and satisfy themselves as to the following:
- (1) That the proponents of the proposed development have demonstrated that they intend to start construction within twelve (12) months following the approval of the project and requested overlay of the PUD District, that the project appears economically sound, that adequate financing is possible, and that the development will be carried out according to a reasonable construction schedule satisfactory to the Village.
 - (2) That the proposed development is consistent in all respects to the spirit and intent of this Ordinance, is in conformity with the general plans for community development, would not be contrary to the general welfare and economic prosperity of the Village or of the immediate neighborhood, that the specific development plans have been prepared with competent professional advice and guidance, and that the benefits and improved design of the resultant development justifies the variation from the normal requirements of this Ordinance through the application of the PUD Planned Development Overlay District.
 - (3) The Plan Commission in making its recommendations and the Village Board in making its determination shall further find that:
 - a. The proposed site is provided with adequate drainage facilities for surface waters and stormwater management.
 - b. The proposed site is accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
 - c. No undue constraint or burden will be imposed on public services and facilities, such as, but not limited to, fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
 - d. The streets and driveways on the site of the proposed development are adequate to serve the proposed development and to meet the minimum standards of all applicable ordinances or administrative regulations of the Village.
 - e. Centralized public sewer facilities are provided (unless as part of an approved unsewered subdivision per Title 14) and centralized public water is desired.
 - f. The density proposed meets the intent of the underlying comprehensive plan densities and/or the area zoning.
 - (4) In the case of proposed residential developments:
 - a. The following of any lot design considerations as per Title 14 of the Village Code.
 - b. That such development will create an attractive residential environment of sustained desirability and economic stability, compatible with the character established for the area by the community Comprehensive Plan, and where the economic impact of the development in terms of income levels, property values, and service demands is at least as beneficial to the community as that which could be anticipated under the base zoning.
 - c. The population composition of the development will not alter adversely the impact upon school or other municipal service requirements as anticipated under the existing basic zoning and Comprehensive Plan.
 - d. That the project will not create traffic or parking demand incompatible with that anticipated under the Comprehensive Plan.
 - e. That the total average residential density of the project will be compatible with the Comprehensive Plan, except as may be modified by this Section.

- f. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
 - g. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.
 - h. That the density doesn't exceed 10% of what a normal approved underlying district would allow.
- (5) In the case of proposed PUD Planned Development Overlays for commercial and industrial developments:
- a. The economic practicality of the proposed development can be justified.
 - b. That the economic practicality of the proposed development can be justified on the basis of purchasing potential, competitive relationship and demonstrated tenant interest.
 - c. That the proposed development will be adequately served by off-street parking and truck service facilities.
 - d. That the locations for entrances and exits have been designed to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an effect upon the general traffic pattern of the area incompatible with that anticipated under the Comprehensive Plan.
 - e. The proposed development will be adequately provided with and will not impose any undue burden on public services and facilities, such as but not limited to fire and police protection, street maintenance, and maintenance of public areas.
 - f. That the architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not creating an effect upon the property values of the surrounding neighborhood incompatible with that anticipated under the Comprehensive Plan.
- (6) In the case of PUD Planned Development Overlays for mixed use developments:
- a. That the proposed mixture of uses produces a unified composite which is compatible within itself and which as a total developmental entity is compatible with the surrounding neighborhood and consistent with the general objectives of the Comprehensive Plan.
 - b. That the various types of uses conform to the general requirements as herein set forth, applicable to projects of such use character.
 - c. The allowable maximum residential density may be computed by dividing the gross area of the planned development by the square feet per family as required by the district intended. This is inclusive of the area of the other proposed uses in the development. (Ex. PD on 12 acres of land with 8 acres for multi-family residential and 4 acres for commercial still equals approximately 104 units (12 acres / 5,000 square feet per unit) upon approval of the Plan Commission and Village Board that the increased density is justified in terms of the relationship to the denser area, the commercial area, open areas, service demand, and the total quality and character of the project.
- (b) Determination:
- (1) The Village Board after due consideration may deny the petition, approve the petition as submitted or approve the petition subject to additional conditions.
 - (2) The approval of a petition and consequent amending of the zoning map by overlay of the PUD District shall be based on and include as conditions thereto the Building, Site and Operational (BSO) Plans for the development as well as all other commitments offered or

required with regard to project value, character or other factor pertinent to assuring that the project will be developed basically as presented in the official submittal plans as approved by the Village Board. Such plans, however, need not necessarily be completely detailed at the time of rezoning provided they are of sufficient detail to satisfy the Plan Commission and Village Board as to the general character, scope, and appearance of the proposed development. Such preliminary plan shall at least designate the pattern of proposed streets, the basic pattern of land use, the size and arrangement of lots, and illustrate a "typical" example of the development proposed. The approval of such preliminary plan shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as the development progresses.

- (3) Any subsequent change or addition to the plans or use shall first be submitted for approval to the zoning administrator and if in the opinion of the zoning administrator such change or addition constitutes a substantial alteration of the original plan, a public hearing before the Village Board shall be required and notice thereof given pursuant to Chapter 18 of this Ordinance.
- (c) Failure to begin development.
 - (1) If no substantial construction has commenced or no use established in the planned unit development district within the time schedule which addresses construction commencement and construction completion submitted to the Village Board, the Village shall petition the board of trustees for the purpose of rescinding the planned unit development overlay designation so as to allow the land in question to revert to its underlying zone. If the planned unit development overlay district is rescinded, the planning and development office shall remove the district from the official zoning map. Those zoning regulations applicable before the creation of the district shall then be in effect and no vested rights in the planned unit development overlay district shall be deemed to have accrued.
 - (d) Failure to comply with the provisions of the planned unit development approval.
 - (1) It shall be unlawful to construct, develop or use any structure or develop or use any land, water or air in violation of any provisions or conditions of a planned unit development approval or order of the Village regarding compliance with conditions of approval.

16-7-5 PLANNED DEVELOPMENT DISTRICTS AND REQUIREMENTS

- (a) Approved Planned Development districts shall be on file at the Village and shall state the development requirements and parameters as approved by the Village Board.
- (b) The text description outlining the parameters for each planned development shall be approved with the rezoning ordinance of the Village Board.
- (c) Amendments to existing PUD text descriptions shall be approved by ordinance of the Village Board concurrent with the determination of non-substantial change resolutions.
- (d) Planned Development District approval lapses twenty-four (24) months after its effective date if substantial development progress has not occurred. The Plan Commission may grant extensions for good cause.

CHAPTER 8
Nonconforming Uses, Structures, and Lots

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
16-8-1	Nonconforming Uses, Structures, and Lots		
16-8-2	Existing Nonconforming Uses		
16-8-3	Conforming Structures on Nonconforming Lots		
16-8-4	Nonconforming Structures on Conforming or Nonconforming Lots		
16-8-5	Vacant Conforming Lots		
16-8-6	Sewer and Water Service Required		
16-8-7	Shoreland-Wetland Nonconforming Structures		
16-8-8	Floodplain Nonconforming Uses & Structures		

SEC. 16-8-1 NONCONFORMING USES, STRUCTURES, AND LOTS

Existing lawful nonconforming uses, structures, and lots shall meet the provisions of this Section, and those located within floodplains, shorelands, and shoreland-wetlands shall also comply with the Village floodplain, shoreland, and shoreland-wetland regulations, whichever is more restrictive.

SEC. 16-8-2 EXISTING NONCONFORMING USES

The lawful nonconforming use of land or water; or a lawful nonconforming use in a conforming or nonconforming structure; or a lawful nonconforming use on a conforming or nonconforming lot that existed at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; however:

- (a) Only that portion of the structure, fixture, land, or water in actual use may be so continued and the nonconforming use may not be extended, enlarged, reconstructed, substituted, or moved except when required to do so by law or order or so as to comply with the provisions of this Ordinance.
- (b) If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, fixture, or premises shall conform to the provisions of this Ordinance.
- (c) When a nonconforming use or a structure with a nonconforming use is damaged by violent wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity to the extent of more than 50 percent of its equalized assessed value, it shall not be restored except so as to comply with the use provisions of this Ordinance.
- (d) Total Lifetime Structural Repair or alternations to a structure, fixture or premises

containing a nonconforming use shall not exceed 50 percent of the equalized assessed value of a conforming use in accordance with the use provisions of this Ordinance. Ordinary maintenance repairs are not considered structural repairs, modifications, or additions. Some examples of such repairs include painting, calking, decorating, paneling, and other nonstructural components; and the repair or replacement of doors, windows, utilities, and sewage treatment and water supply systems. Figure No. 1 reflects the method by which the Zoning Administrator shall determine when modifications to nonconforming uses and their structures are equal to 50 percent.

- (e) Substitution of New Equipment may be permitted by the Board of Zoning Appeals if such equipment will reduce the incompatibility of the nonconforming use with neighboring uses.

16-8-3 CONFORMING STRUCTURES ON NONCONFORMING LOTS

The conforming use of a conforming structure existing at the time of the adoption or amendment of this Ordinance may be continued although the lot area and/or width does not conform to the requirements of this Ordinance.

- (a) Additions and Enlargements to such structures are permitted provided they conform to the established yard/setback, height, parking, loading, access provisions, and other Development Regulations of this Ordinance, other than minimum lot dimensional requirements.
- (b) Existing Structures on Nonconforming Lots that are damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity may be reconstructed provided they conform to the established yard/setback, height, parking, loading, access provisions, and other Development Regulations of this Ordinance, other than minimum lot dimensional requirements.

16-8-4 NONCONFORMING STRUCTURES ON CONFORMING OR NONCONFORMING LOTS

- (a) A Nonconforming Structure with a conforming use lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the structure's size or location does not conform to the Development Regulations of this Ordinance.
- (b) Nonconforming Structures with a conforming use may be repaired, maintained, renovated, rebuilt, or remodeled, subject to building code and other applicable requirements. No prohibition or limits based on cost may be imposed on the repair, maintenance, renovation, or remodeling of such structures.
- (c) Additions and Enlargements to existing encroachment. The provisions of this Subsection with respect to additions or enlargements are applicable only if the lot is served by public sanitary sewer or, if relevant, conforms with existing sanitary code requirements for private onsite sewage treatment systems (POWTS).
- (d) Existing Nonconforming Structures may be moved and shall conform to the established yard/setback, height, parking, loading, and access provisions of this Ordinance.
- (e) A Nonconforming Structure with a Conforming Use that is damaged or destroyed by violent

wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity may be restored or replaced to the size, location, and use that it had immediately before the damage or destruction occurred, subject to building code and other applicable requirements.. No limits may be imposed on the costs of the repair, reconstruction, or improvement of said structure. The size of the structure may be larger than the size immediately before the damage or destruction occurred if necessary for the structure to comply with applicable State or Federal requirements. Any reconstruction shall conform to the Development Regulations of this Ordinance, to the extent practicable, and existing sanitary code requirements, and shall commence within 24 months of the date of damage or destruction, unless an extension is granted by the government agency having authority.

SEC. 16-8-5 VACANT NONCONFORMING LOTS

- (a) Development. The Zoning Administrator may issue a building permit for development of a vacant lot which does not contain sufficient area to conform to the lot dimensional requirements of this Ordinance to be used as a building site provided that the use is allowed in the zoning district in which it is located; the lot is of record in the County Register of Deeds Office prior to the effective date of this Ordinance or amendment thereof; and development is compatible with the character of the surrounding area. Nonconforming (substandard) lots to be served by public sanitary sewer shall be at least 50 feet wide and 7,200 square feet in area. Nonconforming lots to be served by POWTS shall be at least 100 feet wide and 40,000 square feet in area. Lots with smaller dimensions than mentioned above shall not be developed unless a variance is granted by the Board of Zoning Appeals.
- (b) Development of vacant nonconforming lots granted permits under this Section shall be required to meet the yard/setback, height, parking, loading, access provisions, and other Development Regulations, except lot size requirements unless otherwise specified, of this Ordinance. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above may be issued only after a variance is granted by the Board of Zoning Appeals.
- (c) Statutory Provisions. In accordance with Section 66.10015(2)(e) of the Wisconsin Statutes, a property owner of a legal nonconforming (substandard) lot may:
1. Convey an ownership interest in a substandard lot.
 2. Use the substandard lot as a building site if all of the following apply:
 - a. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - b. The substandard lot or parcel is developed to comply with all other requirements of this Ordinance, except the minimum lot dimensional requirement unless otherwise specified.
- (d) Merging. In accordance with Section 66.10015(4) of the Statutes, the Village/City may not require one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged.

SEC. 16-8-6 SHORELAND-WETLAND NONCONFORMING STRUCTURES

The repair, reconstruction, renovation, remodeling, restoration, or expansion of a legal

nonconforming structure, or any environmental control facility related to such structure located in shoreland-wetlands [*of five acres or more in size*] and in existence at the time of adoption or subsequent amendment of this Ordinance may be permitted in accordance with the provisions of Section 61.351(5) and (5m) of the Wisconsin Statutes.

SEC. 16-8-7 FLOODPLAIN NONCONFORMING USES AND STRUCTURES

Modifications or additions to nonconforming uses and structures in floodplains shall comply with the nonconforming regulations in Section _____ of the Village/City floodplain ordinance. Modifications and additions include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding, or replacement of any such existing use or structure. Maintenance is allowed and is not considered a modification, which includes painting, decorating, paneling, and other nonstructural components and the maintenance, repair, or replacements of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

(Note: Many communities have adopted as a separate ordinance the model floodplain ordinance prepared by the Wisconsin Department of Natural Resources.)

SEC. 16-8-8 CHANGES AND SUBSTITUTIONS

Once a nonconforming use or structure has been changed to conform to the requirements of this Ordinance, it shall not revert back to a nonconforming use or structure. The Board of Zoning Appeals may permit the substitution of a more restrictive nonconforming use for an existing nonconforming use. Once the Board of Zoning Appeals has permitted the substitution of a more restrictive nonconforming use, the prior existing use shall lose its status as a legal nonconforming use and the substituted more restrictive nonconforming use shall be subject to all the conditions required by the Board of Zoning Appeals.

**CHAPTER 9
Conditional Uses**

Section Number	Title	Ordinance	Date of Ordinance
16-9-1	Right to Conditional Uses		
16-9-2	Application		
16-9-3	Referral to Plan Commission		
16-9-4	Public Hearing		
16-9-5	Standards for Review		
16-9-6	Decisions		
16-9-7	Written Decisions		
16-9-8	Expiration		
16-9-9	Application to Existing Uses		
16-9-10	Termination		
16-9-11	Failure to Comply		
16-9-12	Conditional Use Permit Revocation		
16-9-13	Appeal		

Sec. 16-9-1 RIGHT TO CONDITIONAL USES

(a) A conditional use, as provided for in this chapter, is a use which may be permitted in a particular zoning district. It is not permitted until approved in the manner provided in this chapter.

(b) If a use or structure is not specifically permitted or prohibited and is of a character that could be compatible with the principal use or structure, such use may be allowed as a conditional use.

(c) If an applicant for a conditional use meets or agrees to meet all of the applicable requirements and conditions specified in this Title or those imposed by the Village Board, the Village shall grant the conditional use. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence. A conditional use once granted shall run with the land and shall not transfer to another parcel with the tenant or operator of the conditional use unless otherwise approved by the Village Board.

Sec. 16-9-2 APPLICATION

(a) An application for a conditional use shall be made by submitting two hard copies and one in electronic/digital format to the zoning administrator on a form established by the Village and shall include the following:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.
- (2) A description of the subject site by lot, block and recorded subdivision or by metes and bounds; parcel identification number of the subject site; address of the subject site; type of structure; proposed operation or use of the structure or site; proposed building, site, operational and parking plans, number of employees if applicable; screening, drainage and sewerage preliminary plans; operational control devices where necessary to eliminate notes, dust, odor, smoke, or other objectionable operating impacts; and the zoning district within which the subject site lies.
- (3) A plat of the survey prepared by a registered land surveyor showing all of the information required under Sec. 16-2-2 for a permit and, in addition, the mean and historic high water lines on or within 40 feet of the subject premises, and existing and proposed landscaping.
- (4) Fee receipt from the zoning administrator for the application fee set by the Village Board from time-to-time.
- (5) In addition to all submittal requirements as set forth, the Zoning Administrator may require the Applicant to submit a written report demonstrating that the proposed use and overall development of the property is compatible with the Village's adopted Comprehensive Plan, as amended from time-to-time and any Detailed Subarea Plans for the area (the "Compatibility and Impact Report"). The precise format, content, and submission procedures for the Compatibility and Impact Report are available from the Zoning Administrator. Among other elements, the Compatibility and Impact Report shall include:
 - (a) A description of how the proposed development is compatible with adopted Village Plans, including the Village's Comprehensive Plan, as amended from time to time detailed Subarea Plans and other plans officially adopted by the Village;
 - (b) An analysis of traffic impacts;
 - (c) An analysis of economic and fiscal impacts, including:
 - i. Identification and assessment of the impacts of proposed project, including positive, negative, and indirect impacts;
 - ii. Proposed measures to mitigate adverse impacts and/or maximize positive impacts including provision of infrastructure or public services improvements;
 - iv. Costs arising from increased demand for and required improvements to public services and infrastructure; and
 - v. Value of improvements to public services and infrastructure to be provided by the project.

- (6) Additional information as may be required by the Plan Commission, Village Board, engineer or Zoning Administrator for the purpose of assisting the Plan Commission and Village Board in their review of the application.

Sec. 16-9-3 REFERRAL TO PLAN COMMISSION.

Each application for a conditional use shall be referred to the plan commission, which shall review it pursuant to section 16-9-4, and shall make a recommendation to the Village Board prior to Village Board Action on the conditional use permit.

Sec. 16-9-4 PUBLIC HEARING.

Upon submission of a complete application under this Chapter, the Zoning Administrator shall fix a reasonable time and place for a public hearing before the Plan Commission on the application for a conditional use and shall give public notice thereof in the same manner as for a change or amendment to this Title under Sec. 16-17-2 including the notice to property owners within 300 feet of any part of the land included in the conditional use at least ten (10) days prior to the date of the public hearing. A copy of all notices for public hearing on applications for conditional uses in the floodplain districts, including a copy of the application, shall be transmitted to the Wisconsin Department of Natural Resources ("DNR") for review and comment. Final action on floodplain applications shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first.

Sec. 16-9-5 STANDARDS FOR REVIEW.

In reviewing the proposed conditional uses, the plan commission shall be guided by the following standards and requirements:

- (1) All conditional uses must be in accordance with the purpose and intent of this Title and shall not be hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the village.
- (2) A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.
- (3) Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, street dedication, certified survey maps, floodproofing, ground cover, diversions, silting basins, terraces,

stream bank protection, planting screens, operational control, hours of operations, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or additional parking may be required by the plan commission upon its finding that these are necessary to fulfill the purpose and intent of this Title and the State Water Resources Act of 1965 and to meet the provisions of state's floodplain, shoreland and wetland management programs. The Zoning Administrator may require a traffic impact analysis to be conducted and a report prepared.

- (4) Except as may be specifically otherwise provided, compliance with all other sections of this Title, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards, shall be required of all conditional uses.
- (5) The requirements and conditions described under this chapter must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied, both of which shall be supported by substantial evidence.

Sec. 16-9-6 DECISIONS.

The Village's decision to approve or deny the conditional use must be supported by substantial evidence in accordance with Sec. 62.23(7)(de), Wis. Stat. and any approval shall be subject to conditions as set forth this Chapter or other applicable Chapter of this Zoning Code. The Village Board shall decide all applications for conditional uses, except applications for floodplain conditional uses, within 60 days after the public hearing. Decisions on floodplain district applications shall be made as soon as is practicable, but not more than 60 days after the required public hearing. Decisions on floodplain district applications shall not be made for 30 days or until the DNR has made its recommendation, whichever comes first.

Sec. 16-9-7 WRITTEN DECISIONS.

All conditional uses shall be acted upon by resolution of the Village Board. Such resolution shall be in writing and shall state the reasons for denial in the case of a denial, or the reasons for approval in the case of an approval including all conditions which are imposed, all variations if any from underlying zoning requirements and all agreements made by owners. All resolutions acted upon by the Village Board shall be transmitted by the Zoning Administrator to the applicant and the Village Clerk within days of adoption of the resolution. A copy of all decisions granting or denying applications for a conditional use or a temporary use for property located in a floodplain shall be transmitted by the Zoning Administrator to the DNR within ten days.

Sec. 16-9-8 EXPIRATION

All conditional uses or temporary uses granted pursuant to this Chapter shall expire within 12 months of the date of the written approval unless substantial work has commenced pursuant to such grant. For purposes of interpretation of substantial work, the Zoning Administrator shall review the individual circumstances of the conditional use permit and make a determination on whether substantial work has commenced. A business of a seasonal nature shall not be deemed to be discontinued during periods in which it is normally inactive (e.g., summer camps, ski areas, marinas, etc.).

Sec. 16-9-9 APPLICATION TO EXISTING USES

- (a) The grant of a conditional use shall be based upon the existing conditions at that time and any expansion or change in use shall require an application to amend the conditional use.
- (b) Applications to amend may be made at any time for expansion or other change of the conditional use and such application shall not prejudice the existing grant as herein authorized.
- (c) Conditional use status granted under previous zoning regulations (known as grandfathering) shall be considered in effect under this ordinance subject to the conditions established by the original grant. Any expansion or other change, however, shall be subject to the provisions of this ordinance.

Sec. 16-9-10 TERMINATION

Any conditional use granted under this Chapter that is discontinued or terminated for a period of twelve (12) consecutive months or eighteen (18) cumulative months in a three (3) year period (A conditional use of a seasonal nature shall not be deemed to be discontinued during periods in which it is normally inactive, i.e. summer camps, snowmobile courses, ski areas, marinas, quarries, etc.) shall be considered abandoned and any future use thereof will require additional Village review and approval.

Sec. 16-9-11 FAILURE TO COMPLY

- (a) No person, firm or corporation shall violate, disobey, neglect or refuse to comply with or abide by the terms and conditions of a conditional use permit.
- (b) The failure of any person, firm or corporation to obtain a conditional use permit when required shall constitute a violation of this chapter.
- (c) In the event of a violation of subsection (a), above, the zoning administrator or his designee may initiate revocation procedures for such conditional use, whether or not a citation for violation of the approval or this Title is issued or injunctive relief is sought.

Sec. 16-9-12 CONDITIONAL USE PERMIT REVOCATION

Should a permit applicant, or the applicant's heirs or assigns, fail to comply with the conditions of the conditional use permit issued by the Village Board or should the use, or characteristics of the use be changed without prior approval by the Village Board, the conditional use permit may be revoked. The process for revoking a permit shall follow the same procedures as those required for granting a conditional use permit as set forth in this Section. Additional grounds for revocation shall include, but not be limited to, the following:

- (1) A change in conditions affecting the public health, safety, and welfare since adoption of the conditional use permit; or
- (2) Fraudulent, false, or misleading information supplied by the applicant or his agent for the conditional use permit; or
- (3) Improper public notice of the conditional use permit public hearing(s) when the permit was considered by the Plan Commission and Village Board.

Sec. 16-9-13 APPEAL

If the Village denies an application for a conditional use, the applicant may appeal the decision to the Racine County Circuit Court under the procedures contained in Sec. 62.23(7)(e)10, Wis. Stat.

Drafter NOTES:

62.23(7)(de)

Need to add definitions to overall definition list:

- a. “Conditional use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.
- b. “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

Reminder to address in specific sections:

specific site conditions for CUP's for:

- 1. recycling site restrictions p. 63 of Foth draft
- 2. Mobile Home Park restrictions p. 64 of Foth draft
- 3. concept of shoreland contract/CUP?

Statutory Requirements:

- a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.
- b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.
- 3. Upon receipt of a conditional use permit application, and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.
- 4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.
- 5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10.