

Chapter 215

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[HISTORY: Adopted by the Board of Trustees of the Village of Caledonia 5-25-1999 by L.L. No. 2-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Fences — See Ch. 102.

Fire prevention and building construction — See Ch. 113.

Flood damage prevention — See Ch. 121.

Subdivision of land — See Ch. 186.

ARTICLE I
General Provisions

§ 215-1. Title.

This chapter shall be known and may be cited as the "Zoning Law of the Village of Caledonia."

§ 215-2. Statutory authority.

Pursuant to the authority and power granted by § 7-700 of the Village Law to regulate and restrict the height, number of stories and size of buildings and other structures; the percentage of occupancy of lots and parcels of land that may be occupied; the size of yards, courts and open spaces; the density of population; the location and use of buildings, structures and land for trade, industry, residence or other purposes; and to establish zones or districts in the Village of Caledonia, the Village Board does ordain the following regulations.

§ 215-3. Districts enumerated.

For the purposes of this chapter, the Village of Caledonia is hereby divided into the following 10 classes of districts:

- R-R Rural Residence District
- R-1 Residence District
- R-2 Residence District
- R-3 Residence District
- B-2 General Business District
- B-3 Highway Business District
- I-1 Light Industrial District
- I Industrial District
- L-C Land Conservation District

P-D Planned Development District

§ 215-4. Zoning Map.

The boundaries of these districts are hereby established on a map entitled the "Zoning Map of the Village of Caledonia," which map accompanies and is hereby declared to be a part of this chapter.¹

- A. The Zoning Map as described in this section is hereby amended so as to include Tax Map Parcel 7.8-2-21 within the boundaries of the B-2 General Business District. **[Added 2-15-2005 by L.L. No. 1-2005]**
- B. The Zoning Map as described in this section is hereby amended so as to include Tax Map Parcels 7.08-2-61 and 7.08-2-64 within the boundaries of the R-3 Residential District. **[Added 3-20-2006 by L.L. No. 2-2006]**
- C. The Zoning Map of the Village of Caledonia is hereby amended to include Tax Map Parcel No. 2.19-1-1.1 and Tax Map Parcel No. 2.20-1-4 in the Rural Residential (RR) Zoning District. **[Added 7-16-2010 by L.L. No. 3-2010]**
- D. The Zoning Map of the Village of Caledonia as provided for in § 215-4 of the Village Code is hereby amended to include MacKay Park (Tax Parcel No. 7.7-1-64) in the Land Conservation Zoning District. **[Added 10-1-2013 by L.L. No. 2-2013]**

§ 215-5. District boundaries.

- A. Where a district boundary line, as appearing on the Zoning Map, divides a lot or land in single ownership as existing at the time of enactment of this chapter, the use authorized on and the district requirements applying to the less restricted portion of the property shall be construed as extending into the remaining portion of the property beyond the district boundary lines for a distance not exceeding 35 feet. Otherwise, unless shown to the contrary on the Zoning Map, the boundary lines of districts are:
 - (1) The center lines of streets and alleys, or such lines extended.
 - (2) Railroad right-of-way lines.
 - (3) The center lines of creeks and waterways.
 - (4) The corporate limits line as it existed at the time of the enactment of this chapter.
- B. Questions concerning the exact location of the district boundary lines shall be resolved by the Zoning Board of Appeals.

§ 215-6. Purposes.

- A. The zoning regulations and districts herein set forth and as outlined upon the Zoning Map are made in accordance with a Comprehensive Plan for the purpose of promoting

1. Editor's Note: The Zoning Map is included in a pocket at the end of this volume.

the public health, safety, morals, convenience, order, prosperity and general welfare of the community.

B. They have been designed to:

- (1) Lessen congestion in the streets.
- (2) Secure safety from fire, panic and other dangers.
- (3) Provide adequate light and air.
- (4) Prevent the overcrowding of land.
- (5) Avoid undue concentration of population.
- (6) Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- (7) Minimize the impact of land development on the natural environment.

C. They have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Village of Caledonia.

§ 215-7. Scope.

No building, structure or land shall hereafter be used and no building, structure or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

§ 215-8. Definitions and word usage.

A. Certain words and terms used in this chapter are defined for the purposes thereof as follows:

ACCESSORY BUILDING OR USE — A building or use clearly incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ALLEY — A public thoroughfare having a right-of-way width of 20 feet or less.

AREA, LAND — When referring to the required area per dwelling unit, means net land area, the area exclusive of street and other public open space.

AREA, TOTAL FLOOR — The area of all floors of a building, including finished attics, finished basements and enclosed porches.

AREA VARIANCE — The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of this chapter.

BLOCK — The length of a street between two street intersections. Where street intersections are at intervals greater than 1,200 feet, 1,200 feet shall be considered the length of the block for purposes of this chapter.

BOARDINGHOUSE and/or ROOMING HOUSE — A dwelling, other than a hotel, wherein more than three people are sheltered and/or fed for profit.

BUILDING — Any structure constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, including tents, lunch wagons, dining cars, mobile homes and similar structures, whether stationary or movable.

BUILDING, ACCESSORY — A building the use of which is customarily incidental to that of a dwelling and which is located on the same lot as that occupied by the main building.

BUILDING, ACCESSORY USE OF — A use customarily incidental to the use of a building for dwelling purposes.

BUILDING, ALTERATION OF — Any change in supporting members of a building, except such changes as may be required for its safety; any addition to a building; any change in use from one location to another; or creation of additional dwelling units within a building.

BUILDING, HEIGHT OF — The vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof or a dome intended for human occupancy; to the decline of a mansard roof and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

BUILDING OR STRUCTURE, NONCONFORMING — An established building or structure lawful prior to and at the time of adoption of this chapter which, because of its inherent nature or construction, does not conform to the provisions of this chapter for the district in which it is located.

BUILDING OR STRUCTURE, NONCONFORMING USE OF — An established use of a building or structure or use of land lawful prior to and at the time of the adoption of this chapter that does not conform to the permitted use provisions of this chapter for the district in which it is located.

BUILDING, PRINCIPAL — A building, including covered porches, in which is conducted the principal use of the lot on which it is situated. In any residence district, any dwelling shall be deemed the principal building on the lot on which the same is situated.

CAMPGROUND, COMMERCIAL — Accommodations provided to the public for a fee, which include such facilities as permanent or temporary structures for living purposes or sites tailored for handling recreational vehicles of a short-term duration not exceeding six months per year, recreational activity areas and structures, water, sewage and waste disposal systems meeting Department of Environmental Conservation and County Health Department standards, off-street parking areas, etc.

CAMPGROUND, PRIVATE — Same as "commercial campground," except that it is not intended for general public use. No fee is charged, and water and sewerage facilities must meet the same requirements as for residential uses.

CENTER LINE OF STREET OR ROAD — A line midway between and parallel to two street or road property lines or as otherwise defined by the Zoning Board of Appeals.

CLUBHOUSE — A building to house a club or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with a public tavern, cafe or other public place.

COMMERCIAL DAY CARE — Care for more than 14 children under age 14 and unrelated to a resident adult for less than 24 hours at a time.

CONSTRUCTION, SEMIFIREPROOF — Construction in which all bearing walls, supporting members and exterior walls are made of masonry, concrete, steel or other equally fire-resistant material and in which the roof is of asbestos shingle or other similarly fire-resistant material.

COURT — An unoccupied open space other than a yard. An "outer court" is one that extends to the street or to the front or rear yard. An "inner court" is any other court.

DAY-CARE CENTER — A facility which provides care for six or more children less than 14 years of age and unrelated to a resident adult for less than 24 hours each day.

DRIVE-IN BUSINESS — A business where patrons may enter the premises and be served or entertained in automobiles, including drive-in outdoor theaters, refreshment stands, banks and the like. Deposit and pickup services shall not be considered drive-in businesses.

DWELLING — A house, apartment building or other building designed or used primarily for human habitation. The word "dwelling" shall not include boardinghouses or rooming houses, tourist homes, motels, hotels or other structures designed for transient residence.

DWELLING, MULTIFAMILY — A dwelling or group of dwellings on one plot containing separate living units for three or more families but which may have joint services or facilities, or both.

DWELLING, ONE-FAMILY — A detached building designed for the use of a single household, including one or more people living as a family.

DWELLING, ROW OR TOWNHOUSE — A dwelling accommodating or designed to accommodate but a single family in a single dwelling unit, the walls on two sides of which may be in common with the walls of adjoining dwellings and are party or lot line walls.

DWELLING, SEMIDETACHED — A detached building containing two dwelling units separated by a party wall, each having one side yard.

DWELLING, TWO-FAMILY — A building having two side yards and accommodating two families.

DWELLING UNIT — Any dwelling or portion thereof used or intended to be used by one family and providing complete housekeeping facilities therefor.

EFFICIENCY APARTMENT — An apartment which includes the following separate rooms or combination thereof: a combination living room and bedroom with a combination kitchen and dining room; or a combination living room, bedroom and dining

room with a separate kitchen, provided that the kitchen can be closed off from the remainder of the room and the bathroom, with a toilet and bath facilities, is in a separate room. No additional room shall be permitted, except hallways and suitable closet and storage space.

FAMILY — One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. More than five persons, exclusive of domestic servants, not related by blood, marriage or adoption shall not be considered to constitute a family.

GARAGE, PRIVATE — A building used for storage space for not more than one commercial vehicle which shall be owned by a person residing on the premises, wherein storage is not for profit.

GARAGE, PUBLIC — A garage conducted as a business. The rental of storage space for more than two passenger cars or for one commercial vehicle not owned by a person residing on the premises shall be deemed a business use.

HOME DAY CARE — Care for more than six but fewer than 14 children under age 14 in an individual's home, who are not related to the individual in residence, for less than 24 hours each day.

HOME OCCUPATION — An occupation conducted in a dwelling unit or customary accessory structure, provided that the home occupation shall be clearly incidental and subordinate to the property's use for residential purposes by its occupants and does not involve the sale of goods or the keeping of a stock-in-trade unless handcrafted on the premises.

HOME, TOURIST — A private residence in which overnight accommodations are provided for not more than 10 transient paying guests.

HOSPITAL — An establishment for temporary occupation by the sick or injured for the purpose of medical diagnosis and treatment, including sanitariums, and shall be limited to the treatment or other care of humans.

HOTEL — A public inn in which there are 12 or more rental rooms without provisions for cooking in any individual room or suite.

KENNEL — The keeping of more than three animals of any type that are more than six months old for commercial purposes and not related to agriculture.

LOT — A piece, parcel or plot of land occupied or to be occupied by a principal building and its accessory building or buildings and including the yards and other open spaces required by this chapter.

LOT, CORNER — A lot which has an interior angle of less than 135° at the intersection of two street lot lines. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an angle of less than 135°.

LOT OF RECORD — Any lot which has been established as such by plat, survey, record or deed prior to the date of adoption of this chapter as shown on the records of the Livingston County Clerk.

MOBILE HOME — A portable structure designed to be transported on its own wheels which is used, designed to be used and capable of being used as a detached single-family residence and which is intended to be occupied as permanent living quarters, containing sleeping accommodations, flush toilet, tub or shower, kitchen facilities and plumbing and electrical connections for attachment of outside systems. The definition of a mobile home includes all additions made subsequent to the installation of the principal structure. This definition does include double-wide manufactured homes but does not include modular dwellings placed on a standard foundation or a travel trailer.

MODULAR DWELLING — A housing unit constructed off site consisting of more than one segment and designed to be permanently anchored to a foundation, to become a fixed part of the real estate, and which meets all the standards of the New York State Uniform Fire Prevention and Building Code. The definition of modular dwelling shall not include mobile home.

MOTEL — A public inn containing not fewer than eight rental units with provisions for but not limited to automobile parking space to accommodate not fewer than one car per rental unit and separate toilet facilities and hot and cold running water for each rental unit.

NONCONFORMING USE — An established use of a building or structure or of land lawful prior to and at the time of adoption of this chapter that does not conform to the permitted use provisions of this chapter for the district in which it is located.

NURSING OR CONVALESCENT HOME — Any establishment where persons are housed or lodged and furnished with meals and nursing care for hire.

PORCH, OPEN — A porch open on three sides except for wire screening. A porch shall not be considered "open" if enclosed by either a permanent or a detachable glass sash. A structure having a driveway running to it, under it or through it shall not be considered to be an open porch.

PROFESSIONAL OFFICES — The office or place of business where professional services are offered, and does not involve the sale of goods or the keeping of a stock-in-trade. Professional offices include but are not limited to those of doctors, dentists, surgeons, attorneys, real estate brokers, architects, engineers, planners, surveyors, insurance brokers, accountants, psychologists and chiropractors.

RENTAL MINI-STORAGE — A building or a group of buildings in a controlled-access and fenced compound that contains varying sizes of individualized, compartmentalized and controlled-access stalls or lockers for the dead storage of customers' goods or wares.

RETREAT — Any home or other structure used for formal or informal gatherings of 20 or more people at one time staying overnight at the facility on a regular basis (six or more overnights during any sixty-day period). Retreat shall not include a hotel, motel, campground, boarding home, nursing home or other institutional use.

SATELLITE ANTENNA — A device capable of receiving or a device similar in design to devices which are capable of receiving signals, either by reason of satellites or other objects in planetary orbit.

STORAGE — The accessible area within a building not used as living space. It can include a basement or usable attic but shall not include breezeways or porches.

STORY — That part of a building included between any floor, other than a basement, and the floor or roof next above.

STREET — Any public way dedicated to public travel greater than 20 feet in width. The word "street" shall include but not be limited to the words "road," "highway" and "thoroughfare."

STREET LINE — The right-of-way line of a street as indicated by dedication or by deed of record.

USE VARIANCE — The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or which is prohibited by this chapter.

VARIANCE — See the definitions of "area variance" and "use variance."

YARD, FRONT — An open space extending across the entire width of the lot between the building line or front main wall of a building and the front property line (street or road right-of-way line) and into which space there shall be no extension of building parts other than steps, open porches, eaves, cornices and similar fixtures.

YARD, REAR — An open space extending across the entire width of the lot between the rear wall of the principal building and the rear line of the lot and unoccupied except for accessory buildings and open porches.

YARD, SIDE — An open, unobstructed space on the same lot with a principal building between the principal building and the side line of the lot and extending through from the front yard to the rear yard, into which space there shall be no extension of building parts other than eaves with an overhang of not more than two feet, rainwater leaders, windowsills and other such fixtures and open steps for a distance not exceeding four feet.

- B. Word usage. The present tense shall include the future, the singular number shall include the plural, and the plural the singular. The word "shall" is always mandatory.

ARTICLE II R-R Rural Residence Districts

§ 215-9. Purpose; permitted uses.

- A. The R-R Rural Residence Districts are primarily for nonfarm or suburban residential uses. In them, no building or other structure shall be built, altered or erected to be used for any purpose other than those listed below.
- B. The following uses are permitted in the R-R Rural Residence District:

- (1) A one-family dwelling and its accessory buildings and uses.
- (2) Other uses and other buildings and structures and accessory uses as provided by Article XIV, Signs; § 215-74, Temporary permits; and § 215-92, Private swimming pools.
- (3) Home occupations, including professional offices, provided that the special provisions contained in Article XVI are met.

§ 215-10. Conditional uses.

The following conditional uses are permitted, subject to site development plan review and approval by the Planning Board under the provisions of Article XII and any applicable special provisions:

- A. Air landing field.
- B. Cemetery.
- C. Church.
- D. Clubhouse. (See also § 215-77.)
- E. Electric substation, gas district governor station, telephone exchange or other public utility building, structure or use, except a business office, storage yard or repair shop.
- F. Golf course, public or private.
- G. Home day care. (See also § 215-78.)
- H. Municipal, county, state or federal use.
- I. Parish house.
- J. Private school or college and its usual appurtenances, including living and dining facilities, but not including vocational, trade or business schools.
- K. Public library.
- L. Public parks and noncommercial public recreational facilities.
- M. Retreat. (See also § 215-79.)
- N. Riding stable or riding academy.
- O. Satellite antenna. (See also § 215-81.)
- P. Schools offering general educational courses.
- Q. Small animal hospital.
- R. Fairgrounds.

§ 215-11. Area, yard and height regulations.

- A. Area per dwelling unit. The minimum land area per dwelling unit shall be 40,000 square feet.
- B. Lot width. The minimum width of the lot at the front building line shall be 200 feet.
- C. Front yards. No building or part of a building shall extend nearer to the street right-of-way line than 60 feet.
- D. Rear yards. There shall be a rear yard with a depth of not less than 50 feet.
- E. Side yards. There shall be two side yards with a total width of not less than 60 feet. No side yard shall be less than 20 feet.
- F. Height. For each foot the height of a building or other structure exceeds 35 feet, the total width of the two side yards shall be increased by two feet.
- G. Exceptions. For exceptions, see Article XIII.

§ 215-12. Accessory buildings.

No detached barn or other accessory building shall be placed closer to a side or rear property line than 15 feet or closer to the street line than the front of the principal building or 60 feet, whichever is greater. A garage or carport may extend into the rear yard.

ARTICLE III
R-1 Residence Districts

§ 215-13. Permitted uses.

In R-1 Residence Districts, no building or other structure or land shall be used and no building or other structure shall be built, altered or erected for any purpose other than for the following uses:

- A. A one-family dwelling and its accessory uses and buildings.
- B. Home occupations and professional offices, provided that the special provisions in § 215-75 under Article XVI are met.
- C. Other uses and other buildings and structures and accessory uses as provided by Article XIV, Signs; § 215-74, Temporary permits; and § 215-92, Private swimming pools.

§ 215-14. Conditional uses.

The following conditional uses are permitted, subject to Planning Board approval under the provisions of Article XII, Site Development Plan Review:

- A. Community medical center where a team of doctors and nurses with supporting staff serve the medical health needs of families and individuals.

- B. Churches, parish house, home day care.

§ 215-15. Area, yard and height regulations.

- A. Area per dwelling unit. The minimum land area or lot size per dwelling unit shall be 15,000 square feet.
- B. Lot width. The minimum width of the lot at the front building line shall be 100 feet.
- C. Front yards. No building or part of a building shall extend nearer to the street right-of-way line than 50 feet.
- D. Rear yards. There shall be a rear yard with a depth of not less than 25 feet. When a building or property extends through a block from street to street, the front yard requirements shall be observed on both streets.
- E. There shall be two side yards with a total width of not less than 24 feet; however, no side yard shall be less than eight feet.
- F. Corner lots. In the case of a corner lot, the yards abutting what are considered to be the front street and the side street, respectively, shall both meet the provisions of Subsection C of this section.
- G. Height. No dwelling shall exceed 2 1/2 stories or 30 feet.
- H. Exceptions. For exceptions, see Article XIII.

§ 215-16. Accessory buildings.

No detached private garage or other accessory building shall be placed closer to a rear property line than 10 feet or closer to a side property line than five feet, and, for each foot the height of such building exceeds 15 feet, these setbacks shall be increased by one foot. No detached garage or other accessory building shall be placed closer to the front street right-of-way line than the front main wall of the principal building or 50 feet, whichever is greater. An attached garage or carport may extend into a rear yard.

**ARTICLE IV
R-2 Residence Districts**

§ 215-17. Permitted uses.

In R-2 Residence Districts, no building or other structure or land shall be used and no building or other structure shall be built for any purpose other than a use permitted in the R-1 Residence Districts (See § 215-13).

§ 215-18. Conditional uses.

Conditional uses in the R-2 District shall be those conditional uses permitted in the R-1 Residence Districts, subject to the same provisions.

§ 215-19. Area, yard and height regulations.

- A. Area per dwelling unit and lot dimensions. For a single-family dwelling, the minimum land area shall be 11,000 square feet, and the minimum width of the lot at the front building line shall be not less than 75 feet. However, this shall not apply to prevent the construction of a single-family dwelling on a lot existing prior to the date of enactment of this chapter and not adjoined at the side by another unoccupied lot or other unoccupied land in the same ownership having an area of not less than 7,500 square feet and a width at the front building line of not less than 65 feet.
- B. Front yards. Front yards shall be determined in the same manner as set forth in § 215-15, and the building setback lines established by § 215-56 shall take precedence.
- C. Rear yards. Rear yards shall be the same as for R-1 Residence Districts as set forth in § 215-15.
- D. Side yards.
- (1) For each dwelling, there shall be two side yards with a total width of not less than 20 feet, except that for each foot a lot of record which existed prior to the date of enactment of this chapter is less than 65 feet wide at the front building line, the total width of the two side yards may be reduced to a minimum of 16 feet. However, in no case shall the minimum width of any one side yard be less than eight feet.
 - (2) For each semidetached dwelling, there shall be a side yard of not less than 12 feet.
 - (3) For nonresidential structures, the side yard requirements are the same as those for R-1 Residence Districts as set forth in § 215-15.
- E. Corner lots. In the case of a corner lot, the yard abutting the street considered to be the front street shall be considered the front yard and shall be determined as provided in § 215-15F. No building other than a detached garage or other accessory building may extend more than 10 feet closer to a side street line than the setback line for buildings along a street considered to be the side street. The yards other than those abutting street lines shall be considered as side yards and shall be as determined by Subsection D of this section.
- F. Height. The height of dwellings shall not exceed three stories or 35 feet.

§ 215-20. Accessory buildings.

The requirements shall be as set forth in § 215-16.

ARTICLE V
R-3 Residence Districts

§ 215-21. Permitted uses.

In R-3 Residence Districts, no building or other structure or land shall be used and no building or other structure shall be built for any purpose other than:

- A. A use permitted in the R-1 and R-2 Residence Districts (see §§ 215-13 and 215-17).
- B. Two-family.
- C. Multifamily.

§ 215-22. Conditional uses.

Conditional uses in the R-3 District shall be those conditional uses permitted in the R-1 Residence Districts, subject to the same provisions.

§ 215-23. Area, yard and height regulations.

- A. Area per dwelling unit and lot dimensions.
 - (1) For a single-family dwelling, the minimum land area shall be 7,500 square feet and the minimum width of the lot at the front building line shall be not less than 60 feet. However, this shall not apply to prevent the construction of a single-family dwelling on a lot existing prior to the date of enactment of this chapter and not adjoined at the side by another unoccupied lot or other unoccupied land in the same ownership having an area of not less than 5,000 square feet.
 - (2) For a two-family dwelling or a pair of semidetached dwellings, the minimum land area shall be 9,000 square feet, and the minimum width of the lot at the front building line shall not be less than 75 feet or the distance necessary to provide the side yards specified below, whichever is greater.
 - (3) For a dwelling containing three or four dwelling units, the minimum land area per dwelling unit shall be 3,000 square feet, and the minimum width of the lot at the front building line shall not be less than 85 feet or the distance necessary to provide the side yards specified below, whichever is greater.
 - (4) For a dwelling containing more than four dwelling units, the minimum land area per dwelling unit shall be 2,600 square feet and the minimum width of the lot at the front building line shall not be less than 85 feet or the distance necessary to provide the side yards specified below, whichever is greater.
- B. Front yards. Front yards shall be determined in the same manner as set forth in § 215-15, and the building setback lines established by § 215-56 shall take precedence.
- C. Rear yards. Rear yards shall be the same as for R-1 Residence Districts as set forth in § 215-15.

D. Side yards.

- (1) For a single-family residence, there shall be two side yards with a total width of not less than 16 feet, and no one side yard shall be less than eight feet in width.
 - (2) For a two-family dwelling, there shall be two side yards with a total width of 16 feet, and the minimum width of one side yard shall be not less than eight feet.
 - (3) For each semidetached dwelling, there shall be a side yard of not less than eight feet.
 - (4) For dwellings of three or more dwelling units, there shall be two side yards with a total width of not less than 20 feet, plus four additional feet for each dwelling unit in excess of three contained in the building. The width of the narrower of the two side yards shall not be less than eight feet. However, any side yard width in excess of 60 feet accumulated under the above schedule may be applied as additional widths for one or more outer courts which to start with are not less than 36 feet wide and 38 feet deep.
 - (5) For nonresidential structures, the side yard requirements are the same as those set forth in § 215-15.
- E. Corner lots. In the case of a corner lot, the yard abutting the street considered to be the front street shall be considered the front yard and shall be determined as provided in § 215-15F. No building other than a detached garage or other accessory building may extend more than 10 feet closer to a side street line than the setback line for buildings along a street considered to be the side street. The yards other than those abutting street lines shall be considered as side yards and shall be determined by Subsection D of this section.
- F. Height. The height of dwellings shall not exceed four stories or 50 feet.

§ 215-24. Accessory buildings.

The requirements shall be as set forth in § 215-16.

§ 215-25. Parking.

Refer to Article XVII.

ARTICLE VI**B-2 General Business Districts****§ 215-26. Purpose.**

The B-2 General Business Districts are primarily for general retail business and related structures and uses.

§ 215-27. Conditional uses.

The following uses are permitted in the B-2 General Business District, subject to Planning Board approval under the provisions of Article XII, Site Development Plan Review:

- A. All those permitted uses in the R-1 and R-2 Residence Districts.
- B. Places of amusement or assembly.
- C. Offices, restaurants and hotels.
- D. Any retail business or retail service, including the making of articles to be sold at retail on the premises. Any such manufacturing or processing shall be clearly incidental to a retail business or service and not more than five persons shall be employed in such manufacturing or process.
- E. Commercial day care and home day care. (See also § 215-78).
- F. Drive-in business, other than a drive-in theater.
- G. Public garage or motor vehicle service station. (See also § 215-61.)
- H. Gyms or fitness centers.
- I. Motor vehicle sales and recreational vehicles.
- J. Any accessory use or building customarily incidental to the above uses.
- K. Single-family, two-family and multifamily apartments on the second floor, provided that such apartments conform to the conversion regulations set forth in § 215-80 of this chapter. [Added 8-14-2001 by L.L. No. 1-2001]

§ 215-28. Area, yard and height regulations.

- A. All residential and accessory buildings shall comply with the area and yard requirements of the R-1 Residence Districts.
- B. All nonresidential and accessory buildings shall meet area, yard and height requirements determined by the Planning Board under site plan review to reasonably take into account such factors as the specific proposed use, site characteristics, surrounding neighborhood, sewage generation, traffic congestion, etc., but such requirements shall in no case be less than those required by any residential district abutting the parcel in question.
- C. Corner lots. All nonresidential buildings and other structures built on corner lots shall conform to the requirements of § 215-88.
- D. Height. No building or structure shall exceed 50 feet in height.

ARTICLE VII
B-3 Highway Business Districts

§ 215-29. Purpose.

The B-3 Highway Business Districts are established for the purpose of providing areas for business uses which are mainly oriented to highway traffic.

§ 215-30. Conditional uses.

In the B-3 Highway Business District, the following uses and buildings and other structures shall be permitted uses, subject to Planning Board approval under the provisions of Article XII, Site Development Plan Review, unless otherwise stated as being exempt from such review:

- A. All those uses permitted in the B-2 General Business District, except dwellings, churches and schools.
- B. Animal hospital, veterinary clinic or kennel, provided that any structure or area used for such purposes, including pens or exercise runs, shall be at least 100 feet distant from any residence district.
- C. Commercial greenhouses and plant nurseries, including offices and sales yards, provided that no building for any such use shall have a heating plant, ventilating flue or other opening except stationary windows within 50 feet of any residence district.
- D. Farm implement or contractor's equipment display, rental and sales establishment and service or part repair shops, provided that no portion of a building used for repair shall have any opening other than stationary windows within 50 feet of any residence district.
- E. Sales lot for mobile homes, recreational vehicles, motor vehicle sales and products similar in nature.
- F. Freight or trucking terminal.
- G. Rental mini storage (self-storage).
- H. Lumberyard.
- I. Motel.

§ 215-31. Area, yard and height regulations.

In addition to the specific restrictions established in connection with permitted uses listed in Article XIII, the following regulations apply to all other uses permitted in B-3 Highway Business Districts:

- A. Area and lot dimensions. The minimum net land area per establishment shall be 50,000 square feet, and the minimum width of the lot at the front building line shall be 200 feet. Construction of a group of establishments in accordance with an integrated site and architectural plan approved by the Village of Caledonia Planning Board shall be allowed.

The minimum land area for such a group shall be five acres, with a minimum width of 400 feet at the front building line.

- B. Front yards. There shall be a minimum front yard of 80 feet from the street or right-of-way line into which space there shall be no encroachment of structures other than a fence, wall or sign not larger than 20 square feet and no encroachment of commercial usage other than parking space for not more than 10 cars.
- C. Side yards. No building shall be placed closer to a side property line than 36 feet, and no automobile parking space shall extend nearer to a side property line than 15 feet.
- D. Rear yards. No building shall be placed closer to a rear property line than 50 feet.
- E. Height. No building or structure shall exceed 50 feet. For each foot the height of a building exceeds 30 feet, the offset from the side and rear property lines shall be increased by two feet.

§ 215-32. Entrances and exits on public thoroughfares.

There shall be no more than two curb cuts per 400 feet of frontage onto a public thoroughfare, and the distance between the center lines of the curb cuts shall not be less than 100 feet, nor shall the curb cuts be wider than 40 feet each.

**ARTICLE VIII
I-1 Light Industrial Districts**

§ 215-33. Purpose.

The I-1 Light Industrial Districts are primarily for heavy commercial and light industrial uses whose activities do not usually constitute a fire hazard or emit smoke, glare, noise, odor or dust or in other ways constitute a nuisance or which are detrimental to neighboring properties.

§ 215-34. Conditional uses.

The following uses are permitted in an I-1 Light Industrial District, subject to Planning Board approval under the provisions of Article XII, Site Development Plan Review:

- A. Bakery.
- B. Bottling works.
- C. Building material yard.
- D. Cabinetmaking.
- E. Carpenter's shop.
- F. Clothing manufacture.
- G. Commercial warehouse.

- H. Electrical welding when entirely enclosed within a building.
- I. Food canning or packing.
- J. Ice plant.
- K. Milk distribution plants.
- L. Optical goods manufacture.
- M. Paper box manufacture.
- N. Printing, publication or engraving.
- O. Storage warehouse.
- P. Trucking terminal.
- Q. Wholesale trade.
- R. Industrial offices.
- S. Electronic manufacture, assembling and/or research.
- T. Any other uses meeting the criteria of § 215-34 of this article as determined by the Board of Appeals.

§ 215-35. Area, yard and height regulations.

- A. Front yards. There shall be a minimum front yard of 80 feet from the street or right-of-way line into which space there shall be no encroachment of structures other than a fence, wall or sign not larger than 20 square feet and no encroachment of commercial usage other than parking space for not more than 10 cars.
- B. Establishments abutting residential districts. All buildings and structures constructed on property which abuts a residential district shall be located so as to provide a minimum side yard of 50 feet on the side adjacent to the residential district. Streets or public rights-of-way 30 feet or more in width may not be included as part of the required side yard. Rear yards shall be not less than 50 feet. There shall be a minimum front setback of 100 feet.
- C. Height. No building or structure shall exceed 50 feet in height.

ARTICLE IX
I Industrial Districts

§ 215-36. Purpose.

The I Industrial Districts are primarily for general and heavy industrial uses and development, with provisions to help ensure that the integrity of nearby community development and the overall environmental quality of the community are safeguarded.

§ 215-37. Conditional uses.

The following uses are permitted in an I Industrial District, subject to Planning Board approval under the provisions of Article XII, Site Development Plan Review:

- A. All those uses and buildings permitted in the I-1 Light Industrial District.
- B. See § 215-98 of the Adult Use and Entertainment Establishments Regulation Law.

§ 215-38. Area, yard and height regulations.

- A. For establishments abutting residential districts, the same provisions as provided for under § 215-35 for I-1 Light Industrial Districts shall apply.
- B. The maximum height of buildings shall be 50 feet.

ARTICLE X
L-C Land Conservation Districts

§ 215-39. Purpose.

The purpose of L-C Land Conservation Districts is to delineate those areas with special or unusual conditions of topography, drainage, floodplain or other natural conditions which serve their ecological purpose best in their natural state and which would be compromised by the development of buildings or structures and whereby considerable damage to buildings and structures may occur due to the processes of nature.

§ 215-40. Conditional uses.

To promote the purposes in L-C Land Conservation Districts, no building or other structure shall be built or land shall be used and no building shall be built, altered or erected to be used for any purpose other than the following, and which are also subject to Planning Board approval under the provisions of Article XII, Site Development Plan Review:

- A. Park, playground, athletic field, game preserve and fish hatchery, including usual accessory buildings.

ARTICLE XI
P-D Planned Development Districts

§ 215-41. Purpose.

The purpose of the P-D Planned Development Districts is to permit the establishment of areas in which diverse uses may be brought together in a unified plan of development utilizing flexible land use standards and design criteria.

§ 215-42. Permitted uses.

In P-D Planned Development Districts, land and buildings may be used for any lawful purpose as determined by the Village Board, subject to the limitations and procedures contained in this article.

§ 215-43. Area requirements.

P-D Planned Development Districts shall comprise not less than 10 acres.

§ 215-44. Procedure.

- A. Application for establishment of a Planned Development District shall be made to the Village Board. The Village Board shall refer the application to the Planning Board for consideration.
- B. The Planning Board may require the applicant to furnish such preliminary plans, drawings and specifications as may be required for an understanding of the proposed development. In reaching its decision on the proposed development, the Planning Board shall consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property and the highway system.
- C. Lot area, width and setbacks should be determined by the proposed uses, the adjoining zoning districts and uses, classification of adjoining roads or proposed new roads, common open space provided and similar factors; provided, however, that the overall average land use density in the development is not less than that required in any adjoining zoning district.
- D. The Planning Board shall approve, approve with modification or disapprove such application and shall report its decision to the Village Board.
- E. The Village Board shall hold a public hearing on the proposal, with public notice as provided by law in the case of an amendment to this chapter.
- F. The Village Board may then amend this chapter so as to define the boundaries of the Planned Development District, but such action shall have the effect only of granting permission for development of the specific proposal in accordance with this chapter and within the area so designated and with the specifications, plans and elevations submitted.
- G. When a Planned Development District has been designated by the Village Board, all such proposed development, whether in total or in stages, shall be subject to site development plan review by the Planning Board, as provided by Article XII.

§ 215-45. Authorized large-scale developments enumerated.

The Village Board shall authorize the following large-scale planned developments as Planned Development Districts under the conditions set forth in §§ 215-41 through 215-44.

- A. Modular home developments.
- B. Single-family housing developments.
- C. Shopping centers.
- D. Office complexes.
- E. Any combination of Subsections A through D.

ARTICLE XII
Site Development Plan Review

§ 215-46. Purpose.

The purpose of site development plan review is to determine that all land uses and new construction of buildings, structures and facilities and expansion of existing buildings, structures and facilities is in compliance with this article in those zoning districts where inappropriate development may cause a conflict between uses in otherwise unsuitable conditions and thereby adversely affect the public health, safety, comfort, convenience and general welfare.

§ 215-47. Uses subject to review.

All new construction of buildings, structures and facilities and all expansion of any existing buildings, structures and facilities for the following land uses shall be subject to site development plan review by the Village Planning Board:

- A. All new residential and accessory structures containing three or more housing units.
- B. All business uses permitted in a B-2 General Business District and a B-3 Highway Business District.
- C. All uses permitted in an I-1 Light Industrial District and in an I Industrial District.
- D. All uses permitted in an L-C Land Conservation District.
- E. All uses proposed in a P-D Planned Development District.
- F. All conditional uses permitted in any of the above districts.
- G. All use variances not already included above.

§ 215-48. Presubmission conference.

- A. An applicant seeking a zoning permit for a use requiring site plan review by the Planning Board shall be so advised by the Code Enforcement Officer. The applicant's next step will be to schedule a presubmission conference with the Planning Board prior to the preparation and submission of a formal site plan. The purpose of this conference is to give both the Planning Board and the applicant an opportunity to gain a better

perspective on the ramifications of the proposal. It should facilitate the formal site plan review process to follow.

- B. At this conference, the applicant shall provide the Planning Board with basic data regarding the proposal. At a minimum, this shall include a sufficiently large map showing the important existing natural and man-made features in and around the site and a sketch plan showing the major features of the proposed development. This information will form the basis with which the Board can advise the applicant on the next steps required to gain final site plan approval and of the necessary data that will have to be provided with the application.

§ 215-49. Filing of application.

- A. The applicant shall file an application for site development plan review with the Village Clerk no later than six months following the presubmission conference. A form is available at the village office for this purpose. The Planning Board may require a second presubmission conference if the application is not filed within this time frame.
- B. When filed, the application shall be accompanied by information about the proposal, including legal data, impact on the environs, natural features, existing development and infrastructure and the site development proposal. The detailed specifics of this required information are contained in a separate document entitled "Site Development Plan Regulations," made a part of this chapter by reference.²
- C. The application must also be certified by the Code Enforcement Officer that the proposal meets all requirements of this chapter.

§ 215-50. Referral to County Planning Board.

Following official receipt and review of the site plan by the Planning Board, the Board shall refer the application to the Livingston County Planning Board, when applicable, for its review and recommendations, in accordance with the requirements of §§ 239-l and 239-m of the General Municipal Law, prior to final action.

§ 215-51. Public hearing.

The Planning Board may exercise its discretion to hold a public hearing on a site development plan when, in its judgment, the characteristics of the proposal, such as size, complexity, potential impact on the surrounding area, traffic generation, environmental considerations, etc., warrant hearing. If a hearing is held, notice of such hearing must be published in the official newspaper at least five days in advance. Said hearing must be held within 45 days of receipt of the application.

2. Editor's Note: The Site Development Plan Regulations are on file in the office of the Village Clerk.

§ 215-52. Decision.

- A. The Planning Board must take final action on site development plan proposals within 62 days following submission of applications for final approval. However, if a public hearing is held, a decision must be rendered within 62 days following the hearing.
- B. The Board must approve, approve with modifications or disapprove the proposal within the specified time. The Board's decision must be filed with the Village Clerk immediately and a copy mailed to the applicant. If the Board fails to act within the prescribed time or where any person is aggrieved by the Board's decision, the aggrieved party may apply to the State Supreme Court for review under Article 78 of the Civil Practice Law and Rules.

§ 215-53. Site improvements; letter of credit; inspections.

- A. Site plan improvements, such as roadways, water, sewer and drainage facilities, landscaping, etc., required to be made by the applicant as part of the approved final plan shall conform to the standards contained in the document entitled "Design Criteria and Construction Specifications for Land Development, Town and Village of Caledonia, Livingston County, New York."³ This document contains provisions whereby the Village Board may require the developer to guarantee completion of such public improvements through the posting of a letter of credit or similar means of assurance and, being duly adopted by the Village of Caledonia, is hereby made a part of this chapter by reference.
- B. No certificate of zoning compliance shall be issued by the Code Enforcement Officer until all improvements shown on the site plan have been installed or a sufficient letter of credit has been posted.
- C. The Code Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board, the engineering consultant and other appropriate concerned parties.

§ 215-54. Engineering review and inspection fee.

An engineering review and inspection fee shall be paid by any applicant or his agent whenever the services of an engineer are required to assist the Planning Board and the Code Enforcement Officer in the review of submitted site development plans and/or inspection of the construction of site improvements in conformance with approved plans and specifications. The payment of said fee shall be a prerequisite to the issuance of a letter from the Planning Board stating that all construction work has been satisfactorily completed as per approved plans or a sufficient letter of credit has been posted and the issuance of a certificate of zoning compliance by the Code Enforcement Officer, in that order.

3. Editor's Note: The Design Criteria and Construction Specifications for Land Development are on file in the office of the Village Clerk.

§ 215-55. Expiration of site plan approval.

Site plan approval shall automatically terminate one year after the same is granted unless a zoning permit has been issued and there is physical evidence to demonstrate that the project is in progress.

ARTICLE XIII
Exceptions and Special Provisions

§ 215-56. Building setback lines.

In no instance shall building setback require placing a main building more than 10 feet back of the front main wall of an adjacent building already existing within 75 feet of and on the same side of the street as the building or part of the building to be erected.

§ 215-57. Fire escapes.

Nothing herein contained shall prevent the projection of an open fireproof escape into a rear yard for a distance of up to eight feet.

§ 215-58. Shopping centers.

Under the provisions of Article XII, Site Development Plan Review, the Planning Board shall also apply the following criteria to shopping centers:

- A. Area. The minimum area shall be 10 acres.
- B. Initial construction. Satisfactory assurance shall be given that initial construction will comprise not less than 50% of the planned total construction as measured in terms of bulk of the buildings proposed to be built.
- C. Plan. The proposed development shall be in accordance with a unified site plan and architectural scheme. However, it shall not be required that the whole of the development be in a single ownership or built or financed by a single party if satisfactory evidence is shown that all parties financially or otherwise concerned in the development are legally bound to conform to the above-required unified site plan and architectural scheme.
- D. Entrances upon streets and highways. All vehicular entrances and exits upon state, county or town roads shall be approved by the appropriate authority.
- E. Off-street parking. Automobile parking space shall be provided on the premises with an area of not less than three times that of the total floor space to be contained in the development.
- F. Off-street loading and unloading space. Off-street loading and unloading space shall be provided in addition to the space required by Subsection E above as required by Article XVII.

- G. Boundary treatment. No building shall be placed closer to any street or road line than 100 feet or closer to any other property line than 200 feet. No parking space shall extend nearer to any street or road line than the established building line or closer to any other property line than 50 feet, and the boundaries along all side and rear property lines abutting a residential district shall be appropriately landscaped and maintained for a depth of not less than 50 feet. Where the shopping center area is directly adjoined by land in a business or industrial district or by a railroad right-of-way, buildings may extend to within 50 feet of the property line and automobile parking space may extend to the property line.
- H. Construction of all buildings shall comply with state and local fire and building codes.

§ 215-59. Motels.

Wherever motels are permitted under this chapter, they shall be subject to the following provisions:

- A. No motel structure or use similar in nature shall be placed closer to a street or road line than 100 feet, closer to any other property line than 50 feet or closer to any other residence district boundary line than 200 feet.
- B. Vehicular parking space to accommodate not fewer than one vehicle for each rental unit plus one additional space for every two persons regularly employed on the premises shall be provided, and no such parking space shall be closer to any public street line than 50 feet.
- C. Water and sanitary facilities shall be approved by the State or County Department of Health.

§ 215-60. Mobile homes.

The following shall apply in addition to all other regulations of the village with respect to mobile homes:

- A. No mobile home shall be parked in any district in the Village of Caledonia for more than 48 hours except upon special permit issued for a period not to exceed 30 days which shall not be renewable within the same calendar year.
- B. As an exception to Subsection A above, a permit may be issued for parking and occupying a mobile home on land owned by the occupant or occupants during the construction of a house thereon for a period not exceeding 180 days and shall be renewable for an additional period of not exceeding 180 days. However, if material progress with house construction is not made within 45 days from the issuance of the permit or if construction work ceases for a consecutive period of 45 days, such permit shall become void.

§ 215-61. Public garages, motor vehicle service stations and mini-marts.

Regulations for public garages and motor vehicle service stations, including mini-marts when gasoline pumps are provided, shall be as follows:

- A. No public garage, motor vehicle service station, mini-mart with gas pumps or private garage for more than five cars shall have a vehicular entrance closer than 200 feet to a church, school, theater, hospital, public park, playground or fire station. Such measurement shall be taken as the shortest distance between such entrances across the street if the entrances are on the opposite sides of the street and along the street frontage if both entrances are on the same side of the street or within the same square block.
- B. All motor vehicle service stations shall be so arranged and all gasoline pumps shall be so placed as to require all servicing on the premises and outside the public way. No gasoline pump shall be placed closer to any side property line than 50 feet.

ARTICLE XIV**Signs****§ 215-62. R-R, R-1, R-2, R-3 and L-C Districts.**

No stationary signs shall be permitted in the Rural Residence, R-1 Residence, R-2 Residence, R-3 Residence and L-C Land Conservation Districts except:

- A. Customary professional and accessory use signs. (See the definition of "professional offices" in § 215-8A.)
- B. Rooming, boarding and tourist home signs not larger than two square feet.
- C. Real estate signs not larger than 12 square feet only when placed on properties for sale or rent.
- D. Signs of an appropriate nature, but not larger than 20 square feet, identifying any other building or use permitted under this chapter.
- E. Signs necessary for the identification, operation or protection of a public utility installation.
- F. Signs incident to a legal process or necessary to the public welfare.

§ 215-63. B-2 and B-3 Districts and Industrial Districts.

Signs and billboards permitted in B-2 General Business and B-3 Highway Business Districts and Industrial Districts shall include:

- A. Signs not larger than 60 square feet, and not more than one per establishment, within a highway distance of two miles, advertising a place of business (not a product) located within a distance of 12 highway miles.
- B. Signs not larger than 60 square feet, and not more than two per subject, within a distance of two highway miles, carrying information of specific interest to the traveling public,

related to such things as historic sites, scenic and recreational areas, overnight and eating accommodations and automobile service facilities.

§ 215-64. P-D Districts.

Signs permitted in P-D Planned Development Districts shall be subject to all the requirements stated elsewhere in this article.

§ 215-65. General regulations and requirements.

Wherever located and whatever their nature, signs and billboards shall conform to the following requirements:

- A. No attached sign shall extend within a street or road property line.
- B. No freestanding sign larger than eight square feet shall have less than three feet of open space at the bottom, extending its entire length.
- C. In matters of setback from the street or road, required yard and other such respects, freestanding signs larger than eight square feet shall be regarded as buildings within the meaning of this chapter.
- D. Advertising display upon a building or other surface shall be regarded as coming within the above regulations.

ARTICLE XV
Nonconforming Uses

§ 215-66. Continuation.

Except as provided in § 215-67, any use of land or a building or structure or part thereof existing at the time that this chapter or any amendment hereto becomes effective may be continued, subject to the provisions of §§ 215-68, 215-69, 215-70 and 215-71, although such building or structure or use does not conform to the provisions of the district in which it is situated.

§ 215-67. Discontinuance. [Amended 11-1-2011 by L.L. No. 2-2011]

When a nonconforming use has been discontinued for period of not less than one year, it shall not be reestablished, and the future use shall be in conformity with the provisions of this chapter. However, in cases where there has been a cessation of the nonconforming use for a period in excess of one year without the intent to abandon the nonconforming use during that time period said nonconforming use may be permitted upon application to the Village Board of Trustees upon a showing of good cause for the cessation of such nonconforming use. In no event, however, can the nonconforming use be continued or reinstated if at any time the structure was used in conformity with the zoning code or was altered in any way for use in any manner other than the nonconforming use.

§ 215-68. Change.

No nonconforming use shall be changed to other than a conforming use for the district in which it is situated.

§ 215-69. Maintenance.

A nonconforming use is hereby required to be maintained in such a condition as will not constitute a danger to the safety or general welfare of the public.

§ 215-70. Alterations, extensions and repair.

Alterations, extensions and repair of the nonconforming use in order to comply with the provisions of this article are permitted, provided that such alterations, extensions and repair shall not tend to increase the inherent nuisance, nor shall such alteration, extension and repair violate any provisions of this chapter regarding yards, lot area or lot coverage for the district in which it is situated or increase any existing violation of such provisions.

§ 215-71. Extension of land area of nonconforming use.

No nonconforming use of land shall be extended beyond the original boundaries of such nonconforming use existing at the time that this chapter or any amendment hereto becomes effective.

§ 215-72. Continuation of construction underway at time of enactment of chapter.

No building or structure designed for or intended to be utilized for a nonconforming use shall be constructed unless construction, reconstruction or alteration is already underway at the time of the enactment or subsequent amendment of this chapter and is being diligently prosecuted so that such building or structure will be completed within 18 months from the time of the enactment or subsequent amendment of this chapter. All outstanding zoning permits for construction which do not meet these requirements shall be rendered null and void by the enactment or subsequent amendment of this chapter.

§ 215-73. Nonapplicability.

The above limitations (§ 215-72) shall not apply to a building or other structure utilized as a dwelling which is nonconforming only in respect to yard space or area per dwelling and nonconforming to the district in which located, except that no building shall be altered, added to or reconstructed to extend further into an already deficient yard space or to reduce an already deficient amount of land area per dwelling.

§ 215-74. Temporary permits.

Temporary permits may be issued by the Code Enforcement Officer for a period not exceeding one year for nonconforming uses incident to housing and construction projects, including structures and uses as storage of building materials and machinery, the processing of building materials and a real estate office located on the tract being offered for sale, provided that such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit. Such permits may be renewed upon application to the Code Enforcement Officer for additional six-month periods, provided that the Code Enforcement Officer determines that substantial progress is being made.

ARTICLE XVI
Special Regulations

§ 215-75. Home occupations and professional offices.

- A. Home occupations (see definition in § 215-8A) shall be permitted in any residence or accessory building for activities such as hair dressing, laundering, television and radio repair, lawn mower and bicycle repair and other uses which the Board of Appeals determines to be similar in scale and nature.
- B. Professional offices (see definition in § 215-8A) may also be established as home occupations.
- C. The following requirements shall apply to all home occupations:
- (1) No more than two people other than members of the immediate family occupying such dwelling shall be employed as part of the home occupation.
 - (2) A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.
 - (3) No more than 25% of the gross floor area of such residence shall be used for the conduct of a home occupation. No more than 40% of the floor area of an accessory structure shall be used for a home occupation (except garages).
 - (4) In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause premises to differ from its residential character either by the use of colors, materials, construction or lighting or the emission of sounds, noises or vibrations.
 - (5) No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the home occupation.
 - (6) No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
 - (7) One sign shall be permitted not to exceed two feet by two feet in dimension. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.
 - (8) One commercial-type vehicle may be used in connection with the home occupation and may be parked on the property.
 - (9) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

- (10) A home occupation shall not be interpreted to include the following:
- (a) Restaurants.
 - (b) Convalescent homes.
 - (c) Mortuary establishments.
 - (d) Garages or shops for the repair of motor vehicles.
 - (e) Other trades and businesses of a similar nature.

§ 215-76. Bus passenger shelters.

Bus passenger shelters shall comply with the following:

- A. Architectural design shall be in keeping with the residential character of the neighborhood, and the structure shall be constructed for easy removal when its use is no longer needed.
- B. The shelter shall be set back from the road right-of-way line at least 10 feet to minimize possible damage from snowplowing and roadwork and to avoid obstruction of such work.

§ 215-77. Clubhouses.

Clubhouses must be architecturally compatible if located in a residential neighborhood and not cause a nuisance by reason of noise or other objectionable features.

§ 215-78. Day care.

Commercial day-care uses shall comply with the following:

- A. Outdoor play areas, if provided on the premises, must be fenced in or otherwise enclosed.
- B. No outdoor play equipment shall be placed within 10 feet of any property line, fence or structure.
- C. Minimum parking shall be one space per staff member, plus one additional space for each seven children.
- D. Adequate space for dropping off and picking up children shall be provided off the street.
- E. Conform with any New York State regulations regarding day care.

§ 215-79. Retreats.

Retreats shall comply with the following:

- A. Applicants shall provide evidence from the County Health Department that the on-site sanitary facilities are adequate to serve the number of guests anticipated.
- B. Evidence shall be provided that adequate emergency escapes are provided and that all fire codes have been met to the local Code Enforcement Officer's satisfaction.

§ 215-80. Conversion regulations.

- A. Conversion of a dwelling unit into two or more dwelling units shall comply with the following:
 - (1) The maximum number of dwelling units per building shall be four.
 - (2) A maximum of one dwelling unit per building may be an efficiency apartment.
 - (3) Certification by a licensed engineer that the existing or proposed septic system is adequate to serve the proposed number of dwelling units shall be provided.
 - (4) The minimum living space for each dwelling unit shall be 600 square feet, plus 100 square feet per dwelling unit available in the building for storage. For efficiency apartments, the requirements shall be a minimum of 400 square feet and 60 square feet, respectively.
 - (5) There shall be two off-street parking spaces for each dwelling unit. Such parking places shall not be located in the front yard. The spaces shall be laid out so as to minimize the impact of headlights and drainage on neighboring properties. In addition, the parking provisions in § 215-82 shall apply.
 - (6) Land overlying a septic system shall not be paved nor used for parking.
 - (7) External stairways and fire escapes shall not be located in the front or sides of the building.
 - (8) Side, front and rear yards shall meet the requirements for two-family and multifamily dwellings in Article V.
 - (9) Such other requirements that the Village Planning Board determines to be reasonably necessary in order to protect the public health, safety and welfare and the character of the neighborhood.
- B. The following materials must be submitted with an application for a special permit to divide a dwelling unit into two or more dwelling units:
 - (1) Site plan showing lot lines, location of buildings, location of septic system absorption lines, existing and proposed parking spaces, trees and other natural features.
 - (2) Existing and proposed floor plans, each showing the number of dwelling units, the number of bedrooms, the size in square feet of each apartment and the existing and proposed entranceways.

- (3) Evidence that the existing septic system can handle adequately the proposed number of dwelling units under § 215-89.

§ 215-81. Satellite antennas.

- A. Satellite dishes and antennas shall be confined to the rear yard whenever possible and shall be screened from sight so long as such screening shall not prevent reception of signal.
- B. Satellite dishes and antennas shall be confined to the rear yard on property listed in the National Register of Historic Places.
- C. No satellite dish or antenna shall be placed in such a way as to impede the official duties of public safety officials or the access of public safety equipment.

ARTICLE XVII

Off-Street Parking and Loading

§ 215-82. General off-street parking regulations; residential on-street parking of commercial vehicles prohibited.

- A. Permanent off-street vehicular storage, parking or standing space shall be provided as set forth below at the time of the erection of any building or structure, at the time any building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area or before conversion from one zoning use or occupancy to another. Such space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. No required front yard or portion thereof in any residential district shall be utilized to provide parking space required in this chapter.
 - (1) Vehicle parking or storage space maintained in connection with an existing and continuing principal building, structure or land use on the effective date of this chapter shall be continued and may not be counted as serving a new building, structure, addition or land use, nor shall any required parking space be substituted for an off-street loading and unloading space, nor shall any required loading and unloading space be substituted for a parking space.
 - (2) The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another at the same time, except that 1/2 of the parking space required for churches, theaters or assembly halls whose peak attendance will be at night or on Sunday may be assigned to a use which will be closed at night or on Sunday.
 - (3) No off-street automobile parking or storage space shall be used or designed, arranged or constructed to be used in a manner that will obstruct or interfere with the free use of any street, alley or adjoining property.
 - (4) The parking spaces provided, along with their necessary driveways and passageways, shall be paved in a manner adequate to eliminate dust and mud

problems. Plans for such parking spaces are to be included with the plans for the construction of buildings and other structures and are to be presented to the Code Enforcement Officer at the time applications for zoning permits are to be filed. Such parking areas are to be kept free of obstructions and unsightly objects. Intersections of parking areas with sidewalks or street pavements must be made in an approved manner. Provision must be made for the adequate drainage of parking areas.

- B. No commercial motor vehicle of more than one ton capacity shall be parked or stored overnight on the street in any residential district.
- C. For the purpose of computing the number of parking spaces available in a given area, the ratio of 300 square feet per parking space shall be used. This figure includes aisle and maneuvering space.

§ 215-83. Parking schedule.

Parking spaces shall be provided in accordance with the following schedule:

Use	Number of Spaces
Amusement facilities, such as bowling alleys, recreational centers, etc.	1 for every 5 customers, computed on the basis of maximum servicing capacity at any 1 time, plus 1 additional for every 2 persons regularly employed on the premises
Apartment houses	2 for each apartment
Auditoriums	1 for every 5 seats occupied at maximum occupancy
Boardinghouses or bed-and- breakfast establishments	1 for each sleeping room occupied by roomers or boarders, plus 1 1/2 for each dwelling unit on the premises, plus 1 additional for every 2 persons regularly employed on the premises
Churches and other places of public assembly, including theaters	1 for every 5 seats occupied at maximum occupancy
Civic centers and other governmental offices and facilities	Parking or storage space for all vehicles used directly in the operation of such establishment, plus 4 parking spaces for the first 1,000 square feet of total floor area and 1 additional space for every additional 150 square feet of floor area
Clubhouses and permanent meeting places of veterans, business, civic, fraternal, labor and other similar organizations	1 for every 50 square feet of aggregate floor area in the auditorium, assembly hall and dining room of such building, plus 1 additional for every 2 persons regularly employed on the premises
Day-care uses	See § 215-78C

Use	Number of Spaces
Dental and medical clinics	3 for each doctor or dentist, plus 1 additional for every 2 regular employees
Drinking and eating establishments	1 for every 100 square feet of total floor area
Electrical shops, plumbing and other installation and repair trades	Parking or storage space for all vehicles used directly in the conduct of the business, plus 1 parking space for each 2 persons regularly employed on the premises
Freight terminals, trucking terminals and warehouses	Parking or storage space for all vehicles used directly in the business, plus 1 parking space for each 2 persons regularly employed on the premises
Funeral homes	Parking or storage space for all vehicles used directly in the business, plus 1 parking space for each 2 persons regularly employed on the premises and 1 space for every 6 seats in the auditorium or chapel of such establishment. If the establishment does not have a chapel or auditorium, the additional parking to be required for funeral visitors shall be determined by the Board of Appeals based on the number of funerals that can be handled at 1 time, the size of the facilities and other relevant factors.
Hotels and motels	1 for each sleeping room offered for tourist accommodation, plus 1 for each dwelling unit on the premises, plus 1 additional for every 2 persons regularly employed on the premises
Indoor retail businesses	Parking or storage space for all vehicles used directly in the conduct of such business, plus 4 parking spaces for the first 1,000 square feet of total floor area and 1 additional space for every additional 150 square feet of floor area
Industrial plants and facilities	Parking or storage space for all vehicles used directly in the conduct of such industrial use, plus 1 parking space for every 2 employees on the premises at the maximum employment on a single shift

Use	Number of Spaces
Motor vehicle service station/mini-mart	Parking or storage space for all vehicles used directly in the conduct of the business, plus 1 parking space for each gas pump, 3 spaces for each grease rack and 1 space for every 2 persons employed on the premises at maximum employment on a single shift. Where eating and drinking facilities are an accessory use, 2 additional parking spaces shall be provided.
Nursing homes	1 for every 2 beds, computed on the basis of the maximum bed capacity of the structure
Offices, business and professional	1 for every 200 square feet of office space
Outdoor retail businesses	Parking or storage space for all vehicles used directly in the conduct of such business, plus 1 parking space for every 2 persons employed on the premises on maximum seasonal employment and such additional space as may be required by the Board of Appeals based on the nature of the business and other related relevant factors
Public garages	Indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business, plus 3 parking spaces for each person regularly employed on the premises
Public or private schools	1 for each person regularly employed at such school, plus 1 additional for each classroom
Residences	2 per dwelling unit in single-family and 2-family structures; 2 per dwelling unit in multiple-family structures
Self-service laundries and dry-cleaning self-service plants	1 for every 2 washing machines and/or 2 dry-cleaning machines
Services, such as financial, insurance and real estate	Parking or storage space for all vehicles used directly in the business, plus 1 parking space for each 2 persons regularly employed on the premises
Wholesale businesses	Parking or storage space for all vehicles used directly in the conduct of such business, plus 1 parking space for each 2 persons employed on the premises based on maximum seasonal employment

§ 215-84. General loading regulations.

- A. On the same premises with every building or structure or part thereof hereafter erected and occupied for the purpose of business, trade or industry, there shall be provided and maintained adequate space for loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley or, if there is no alley, to a street.
- B. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space.
- C. Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in such a manner to obstruct or interfere with the free use of any street, alley or adjoining property.
- D. Off-street loading and unloading space shall be provided as set forth below at the time of erection of any building or structure and/or at the time any building or structure is enlarged or increased in capacity.

§ 215-85. Loading schedule.

Off-street loading shall be provided in accordance with the following schedule:

Use	Number of Loading Spaces
Freight/trucking terminals	1 at least 12 x 50 x 14 feet high for every 5,000 square feet of total floor area
Electrical and plumbing shops and other installation and repair trades	Same as retail businesses and hotels
Hospitals	Same as retail businesses and hotels
Retail businesses and hotels	1 at least 12 x 35 x 14 feet high for every 3,000 square feet of floor area
Warehouse and wholesale businesses	1 at least 12 x 50 x 14 feet high for every 7,500 square feet or less of total floor area

**ARTICLE XVIII
Supplementary Regulations**

§ 215-86. Frontage on public street or road.

- A. No dwelling shall be erected on a lot which does not abut on at least one street for a distance of not less than 40 feet.
- B. No dwelling may be built or erected directly behind another dwelling having access on the same street or within 200 feet thereof. "Directly behind another dwelling" means within more than 1/2 the width of the structure so placed.
- C. No building in the rear of a principal building on the same lot may be used for residential purposes, except for domestic employees of the occupants of the main building.

§ 215-87. Reduction in lot area prohibited.

- A. No lot, although it may consist of one or more adjacent lots of record, shall be reduced in area to the extent that yards, lot area per family, lot width, building area or other requirements of this chapter are not maintained. This subsection shall not apply when a portion of a lot is required for a public purpose.
- B. No space applied or necessary under this chapter to satisfy the yard or other open space requirements in relation to any building or area, whether now or subsequently built or occupied, shall be counted as part of a required open space in relation to any other building.

§ 215-88. Obstruction of vision at intersections.

In all districts, on a corner lot, within the triangular area formed by the center lines of the streets from the intersection, as shown on the schedule below, there shall be no obstruction to vision between the height of 3 1/2 feet and the height of 10 feet above the average grade of each street on the center line thereof. The requirements of this section shall not be deemed to prohibit the construction of any necessary retaining wall.

Sight Distance Schedule

Street Right-of-Way Width (feet)	Distance From Intersection of Center Line (feet)
50 or more	75
40 to 49	65
40 to 39	55

§ 215-89. Septic systems.

All septic tank installations shall conform to the requirements and regulations of the New York State Department of Health and shall also conform to the following additional requirements:

- A. Any individual performing septic installation or repairs within the Village of Caledonia must be listed as a registered individual sewage treatment installer with the Livingston County Department of Health.
- B. Any or all repairs to a sewage treatment system or any other parts of the system may not be performed until a permit has been filed with the Village of Caledonia and the Livingston County Department of Health. All repairs or installations may be subject to inspection by the Health Department. Failure to follow proper permit process may result in a fine.
- C. Seepage pits shall not be approved for new construction projects. Only trench-type wastewater treatment systems or fill systems may be utilized for new construction projects.

- D. A minimum separation distance of three feet shall be maintained from the bottom of the wastewater treatment system to any soil limitation (seasonal high groundwater, bedrock or rapid-percolation rate soil) for all new construction projects.
- E. Required size of each absorption system shall be based on the design flows specified in Appendix 75-A of the New York State Sanitary Code, for individual households, and the Design Standards for Wastewater Treatment Works, published by the New York State Department of Environmental Conservation, for all other structures. Design flows shall be utilized without modification for the use of low-flow plumbing fixtures.
- F. Subsurface wastewater treatment systems shall not be constructed on soils with rapid percolation rates (faster than five minutes) unless the site is modified by blending less permeable soil to reduce the infiltration rate throughout the area to be used.
- G. An additional usable area of 100% shall be set aside for future expansion or replacement of a wastewater treatment system for all new construction projects.
- H. Soil investigation. Soil limitations shall be determined by a representative of the Livingston County Department of Health.
- I. Septic tanks for new construction projects shall consist of a dual compartment tank, sized in full accordance with Appendix 75-A of the New York State Sanitary Code. The tank shall also be equipped with a gas deflection baffle or equivalent device.

§ 215-90. Minimum floor area.

- A. No single-family dwelling shall henceforth be constructed, nor shall any existing single-family dwelling be reduced in area, so as to contain less than 950 square feet of floor area usable for living purposes and 300 square feet of floor area usable for storage (not including automobile storage).
- B. No dwelling unit in a two-family or multiple-family dwelling shall henceforth be constructed, nor shall an existing dwelling unit in such building be reduced in area, so as to contain less than 600 square feet of floor area usable for living purposes and 100 square feet of floor area usable for storage purposes.

§ 215-91. Community open space.

On any lot containing more than 12 dwelling units, there shall be provided community open space containing not less than 200 square feet of land area per dwelling unit.

§ 215-92. Private swimming pools.

A private swimming pool installed or maintained as an accessory use in a residential district shall meet the following requirements:

- A. The provisions of Section 901.16 and Part 720 of the New York State Uniform Fire Prevention and Building Code shall be complied with as minimum requirements.

- B. Such pool shall be equipped with an integral filtration system and filter pumps or other mechanical devices which shall be so located and constructed as not to interfere with the peace, comfort and repose of the occupants of any adjoining property.
- C. A zoning permit shall be required prior to the installation of any swimming pool, whether installed in ground or above ground.

§ 215-93. Bed-and-breakfast establishments.

- A. No bed-and breakfast establishment shall be operated in any district unless a special permit has been issued for such operation by the Village Board of Trustees pursuant to the requirements and conditions of this section.
- B. The following definitions are applicable to this section:

BED-AND-BREAKFAST ESTABLISHMENT — A dwelling occupied by an owner or proprietor and operated so as to make available three or fewer sleeping units for overnight use to transient paying guests.

SLEEPING UNIT — A part of a dwelling in which a bed of any type, including folding or convertible, is provided, with or without a bathroom. A sleeping unit is primarily intended for temporary use by tourists and transients.

- C. An application for a special permit for such operations shall be made by the owner of the premises. The application shall be accompanied by information as to the dimensions of the property, the improvements thereon and parking and a floor plan of the structure in which the operations are to be conducted, giving dimensions of rooms and a description of the interior of the structure. The applicant shall give further evidence as to the locations within the structure in which the bed-and-breakfast establishment and inn are to be operated. It shall be established to the satisfaction of the Code Enforcement Officer also that each sleeping unit shall have a smoke alarm system and each sleeping unit shall have two exits. Existing bed-and-breakfast establishments shall apply for a special permit and conform to the provisions set forth in this section within six months of the enactment of this chapter.
- D. There shall be no change in the outside appearance of a building or premises or other visible evidence of the conduct of a bed-and-breakfast establishment and inn other than one sign not exceeding two square feet in area which shall not be illuminated but which shall be mounted on the building on the property.
- E. The applicant shall also provide evidence to the satisfaction of the Board that the water supply and other sanitary facilities have been approved by the Department of Health.
- F. A minimum of one off-street parking space for each sleeping unit shall be provided. Refer to Off Street Parking and Loading XVII.
- G. A permit shall be valid only for a period of five years.

- H. The special permit may be issued subject to whatever conditions the Board of Trustees deems advisable to assure public safety, to regulate traffic of persons and vehicles and to promote public health.
- I. A special permit may be granted by the Village Board of Trustees after a public hearing has been held pursuant to the conditional requirements and conditions of this chapter.

ARTICLE XIX
Adult Use and Entertainment

§ 215-94. Title.

This article shall be known as the "Adult Use and Entertainment Establishments Regulation Law" of the Village of Caledonia.

§ 215-95. Purpose.

It is the purpose of this article to regulate the creation, opening, commencement and/or operation of adult use and entertainment establishments, as herein defined, in order to achieve the following:

- A. To preserve the character and the quality of life in the Village of Caledonia's neighborhoods and business areas.
- B. To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas as: decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding nonadult businesses; and deterioration of neighborhoods.
- C. To restrict minors' access to adult uses.
- D. To maintain the general welfare and safety for the Village of Caledonia's residents.

§ 215-96. Legislative intent.

This article is intended to be supplementary to the Village of Caledonia Zoning Law, (Chapter 215 of the Code of the Village of Caledonia). It is intended that this article shall supersede only those provisions of the Village of Caledonia Zoning Law which are inconsistent herewith. All provisions of the Village of Caledonia Zoning Law consistent herewith are incorporated herein by reference, and the uses and activities regulated hereby are subject to the provisions of the Village of Caledonia Zoning Code unless specifically provided otherwise by this article.

§ 215-97. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ADULT ARCADE — Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ADULT VIDEO STORE —

- A. A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
- (1) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.
 - (2) Instruments, devices or paraphernalia which are primarily intended, labeled, designed, advertised or promoted for use in connection with specified sexual activities.
- B. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. For purposes of this definition, principal business purpose shall mean 25% or more of any of the following:
- (1) The number of different titles or kinds of such merchandise.
 - (2) The number of copies or pieces of such merchandise.
 - (3) The amount of floor space devoted to the sale and/or display of such merchandise.
 - (4) The amount of advertising which is devoted to such merchandise, either in print or broadcast media.

ADULT CABARET — A nightclub, bar restaurant or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity.
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

ADULT MOTEL — A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other

photographic reproductions which are characterized by the depiction or description of specified anatomical areas or specified sexual activities; and has a sign visible from the public right-of-way which advertises the availability of this type of photographic reproductions.

ADULT MOTION-PICTURE THEATER — A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

ADULT THEATER — A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities.

ADULT USE AND ENTERTAINMENT ESTABLISHMENTS — A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings, or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion-picture theaters; escort agencies; nude model studios and sexual encounter centers. Adult use and entertainment establishments customarily exclude minors by reason of age.

ESCORT — A person who, for a fee, tip or other consideration, agrees or offers to act as a date for another person; for consideration, agrees or offers to privately model lingerie for another person; for consideration, agrees or offers to privately perform a striptease for another person; or, for consideration, but without a license granted by the State of New York, agrees or offers to provide a massage for another person.

ESCORT AGENCY — A person or business association who furnishes or offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

NUDE MODEL STUDIO — Any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.

NUDITY or A STATE OF NUDITY — The appearance of specified anatomical areas.

PERSON — An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMINUDE — A state of dress in which clothing covers no more than the specified anatomical areas, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER — A business or commercial enterprise that, as one of its primary business purposes, offers, for any form or consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

SPECIFIED ANATOMICAL AREAS — Unless completely and opaquely covered, human genitals, pubic region, buttocks or breasts below a point immediately above the top of the areola; and, even if completely and opaquely covered, male genitals in a discernibly turgid state.

SPECIFIED SEXUAL ACTIVITIES — Includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- C. Masturbation, actual or simulated.
- D. Excretory functions.

§ 215-98. Permissible zoning district.

All adult use and entertainment establishments as defined herein may be created, opened, commenced or operated only within the Zoning Districts within the Village of Caledonia created pursuant to § 215-5 of the Code of the Village of Caledonia.

§ 215-99. Special permit and conditions.

No adult use and entertainment establishment shall be allowed to operate unless located in the aforementioned zoning district unless a special permit has been issued for such operation by the Village Board of Trustees pursuant to the requirements and conditions of this section. Prior to the issuance of a special permit, the Village Board of Trustees must conduct a public hearing with public notice published pursuant to the requirements of § 215-109 of the Zoning Law of the Village of Caledonia. Said special permit shall be subject to the following conditions and restrictions:

A. Location.

- (1) No adult use and entertainment establishment shall be located:
 - (a) Within 500 feet of the boundary of any residential zoning district in the village.
 - (b) Within 500 feet of the property line of a parcel used for residential purposes in the village.
 - (c) Within 1,000 feet of the property line of a parcel containing a religious place of worship, library, school, day-care facility, park, playground or municipal government office for public meetings within the village.
 - (d) On the same parcel as another adult use and entertainment establishment.

- (e) Within 1,000 feet of the property line of another adult use and entertainment establishment, whether or not such other establishment is located in the village.
 - (2) The above distance of separation shall be measured from the nearest exterior wall of the portion of the structure containing the adult use and entertainment establishment, measured in a straight line, without regard to intervening structures or objects.
- B. Display prohibited. All adult uses and entertainment establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open air, through a window or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any specified anatomical area or specified sexual activity.
- C. Planning Board referral. No special permits shall be issued unless and until the proposed adult use and entertainment establishment shall have obtained full site development plan review approval by the Village of Caledonia Planning Board pursuant to Article XII of the Village of Caledonia Zoning Law.
- D. Application materials. Applications to be considered by the Village Board shall be made in writing to the Village Code Enforcement Officer in the same manner as required for zoning permits pursuant to § 215-103 of the Zoning Law of the Village of Caledonia. In addition to the requirements of the aforesaid section, the applicant shall also provide a full instrument survey map prepared by a licensed engineer or land surveyor that contains the following minimum information:
- (1) Boundary line survey of the property.
 - (2) The portion of the parcel proposed to be developed for the adult use and entertainment establishment.
 - (3) An area location map identifying the locations of all uses specified hereinabove at Subsection A(1)(a) through (e).
 - (4) The location of all existing or proposed buildings, site access, off-street parking, signage, sign lighting, landscaping, drainage and other features as may be required for the applicant to obtain site development approval from the Planning Board.
 - (5) A completed environmental assessment form.
- E. Compliance with other state, federal and local laws.
- (1) The issuance of the special permit and the applicant's continued entitlement thereto shall be specifically conditioned upon the applicant's continued compliance with all federal, state and local laws, regulations and/or ordinances, including but not limited to the following:
 - (a) New York State Penal Law.
 - (b) New York State Alcoholic Beverage Control Law.

- (c) Any federal, state and local laws, ordinances or regulations pertaining to building safety and fire safety.
 - (d) New York State Public Health Law.
 - (e) Any other state, federal or local codes which have not hereinbefore been specifically enumerated.
- (2) In the event that the applicant has been found to be in violation of any of the aforesaid provisions of law or any other law, ordinance or regulation of the Village of Caledonia or any of the conditions set forth in this section, any special permit issued hereunder shall be revoked and permanently terminated after a public hearing.
- F. The Village Board of Trustees may but need not hold any public hearing required hereunder jointly with the Village Planning Board at the time that the Planning Board holds any public hearing pursuant to the application for site development review.
- G. Time limit. Special permits issued hereunder shall be effective for a period of two years from the date of issuance. Prior to the expiration of the effective period of a special permit, the owner/operator may apply to the Board of Trustees for a renewal thereof. Upon an application for said renewal, the Board of Trustees may (but need not) waive any of the requirements of § 215-99D (Application materials) upon a showing that there has been no change in circumstances in any of the items represented in the original application materials. All renewal periods shall be for a period of two years.

§ 215-100. Penalties for offenses.

- A. Any person, firm, corporation or entity found to be violating any provisions of this article shall be served with a written notice by the Village Code Enforcement Officer or his designee or the Village of Caledonia Police Department or the Livingston County Sheriff's Department or the New York State Police, stating the nature of the violation and providing for immediate correction thereof. Such notice shall be served by one of the following methods:
- (1) By personal service.
 - (2) By certified mail, return receipt requested, addressed to his or their last known address as shown on the latest completed assessment roll of the Village of Caledonia.
 - (3) By posting of such notice in a conspicuous place upon the premises affected, and a copy thereof mailed, addressed to his or their last known address as shown on the latest completed assessment roll of the Village of Caledonia.
- B. Any person, firm, corporation or entity who shall violate any portion of this article shall be guilty of a violation and, upon conviction thereof, shall be fined in an amount not to exceed \$500 for each violation. The continuation of a violation of the provisions of this article shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.

- C. The owner and/or any occupant and/or any tenant and/or general agent of a building, premises or part thereof shall be jointly and severally liable for any violations alleged herein as if they had committed such violations personally and shall be fully subjected to the sanctions set forth herein.
- D. Any person, firm, corporation or entity violating any of the provisions of this article shall become liable to the village for any expense or loss or damage occasioned the village by reason of such violation and the following, including but not limited to statutory costs, disbursements and reasonable attorney fees.
- E. The imposition of penalties herein prescribed shall not preclude the village or any person from instituting appropriate legal action or proceedings to prevent a violation of this article or to restrain or enjoin the use or occupancy of a building, premises or part thereof in violation of this article.

ARTICLE XX Administration

§ 215-101. Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, convenience, prosperity and general welfare of the Village of Caledonia.

§ 215-102. Enforcing officer; duties.

- A. Enforcing officer. The provisions of this chapter shall be administered and enforced by the Code Enforcement Officer appointed by the Village Board, who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter.
- B. Duties. It shall be the duty of the Code Enforcement Officer to keep a record of all applications for permits and a record of all permits issued with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for use of the village and other officials. The Code Enforcement Officer shall not issue a permit for the construction of any building or use of any property unless such building or use conforms to all other ordinances of the Village of Caledonia.

§ 215-103. Zoning permits.

- A. Requirement. It shall be unlawful to commence the excavation for or the construction of any building or structure, including accessory buildings, or to commence the moving or alteration of any building or structure, including accessory buildings, until the Code Enforcement Officer has issued a zoning permit for such work.
- B. Issuance.

- (1) In applying to the Code Enforcement Officer for a zoning permit, the applicant shall submit a dimensioned sketch or plan to scale indicating the shape, size, height and location in exact relation to all property lines and the street or road lines of all buildings or structures to be erected, altered or moved and of any building or structure already on the lot. This sketch shall be accompanied by a written statement from a qualified engineer or other satisfactory evidence to the effect that the line of the bounding street or road has been accurately located and staked on the ground.
 - (2) The applicant shall also state the existing or intended use of all such buildings and supply other information as may be required by the Code Enforcement Officer to ensure that the provisions of this chapter are being observed.
 - (3) If the proposed excavation, construction, alteration or moving as set forth in the application is in conformity with the provisions of this chapter and other regulations of the Village of Caledonia then in force, the Code Enforcement Officer shall issue a permit for such excavation, construction, alteration or moving.
- C. Refusal. If a zoning permit is refused, the Code Enforcement Officer shall state such refusal in writing, with the cause, and shall immediately mail notice of such refusal to the applicant at the address indicated on the application.
- D. Fees. The fee to be charged for the issuance of a zoning permit is established in the Village Fee Schedule which is available at the village office.
- E. Effect. The issuance of a permit shall in no case be construed as waiving any provisions of this chapter.
- F. Term. A zoning permit shall become void six months from the date of issuance unless substantial progress has been made since that date on the project described therein; provided, however, that the zoning permit may be renewed for an additional six months upon application therefor without the payment of an additional fee.

§ 215-104. Certificates of zoning compliance.

- A. Requirement. No land or building or other structure or part thereof hereafter erected or altered in its use or structure shall be used or occupied until the Code Enforcement Officer shall have issued a certificate of zoning compliance stating that such land, building, structure or part thereof and the proposed occupancy or use thereof are found to be in conformity with provisions of this chapter.
- B. Issuance. Within five days after notification that a building, structure, premises or part thereof is ready for occupancy or use, it shall be the duty of the Code Enforcement Officer to make a final inspection thereof and issue a certificate of zoning compliance if the land, building, structure or part thereof is found to conform to the provisions of this chapter.
- C. Refusal. If the Code Enforcement Officer, after such final inspection, shall refuse to issue a certificate of zoning compliance, he shall state such refusal in writing with the cause

and immediately thereupon mail notice of such refusal to the applicant at the address indicated on the application.

ARTICLE XXI
Board of Appeals

§ 215-105. Creation, composition and appointment.

- A. Creation. A Board of Appeals is hereby established in accordance with the New York State Village Law.
- B. Composition. The Board of Appeals shall consist of five members.
- C. Appointment. The Board of Trustees shall appoint the members of the Board of Appeals in such manner as may be provided by the Village Law of the State of New York.
- D. Removal. The Board of Trustees shall have the power to remove any member of the Board of Appeals for cause and after public hearing.
- E. Vacancies. Vacancies shall be filled by the Board of Trustees for the unexpired term of the member whose position has become vacant.

§ 215-106. General procedures.

- A. Meetings. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. Meetings of the Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law.
- B. Oaths. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses.
- C. Minutes. The Board of Appeals shall keep the minutes of its proceedings, showing the vote of each member upon every question, or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall, within five business days, be filed in the office of the Village Clerk and shall be a public record.

§ 215-107. Powers.

The Board of Appeals shall have the following powers:

- A. Administrative review. To hear and decide appeals from and review any order, requirement, decision, interpretation or determination made by the Code Enforcement Officer or other administrative officer in carrying out or enforcing any provision of this chapter. The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to grant a use variance or area variance.

- B. Special permits. To hear and decide applications for special permit as specified in this chapter and to authorize the issuance of special permits as specifically provided herein. A majority vote of all members of the Board of Appeals shall be necessary to grant a special permit.
- C. Variance. To grant use and area variances as defined in the New York State Village Law; provided, however, that such powers are subject to the provisions of Article 7 of the Village Law as it now exists or may hereafter be amended. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related and incidental to the proposed use of the property. Such conditions shall be consistent with the sphere and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 215-108. Special procedures relative to appeal for administrative review or variance.

- A. Who may appeal. An appeal to the Board of Appeals for administrative review or variance may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, board or bureau affected by any decision of the Code Enforcement Officer based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the Board of Appeals a notice of appeal specifying the grounds thereof. The Code Enforcement Officer shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken.
- B. Time of appeal. Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the Code Enforcement Officer by filing with such administrative official and with the Board of Appeals a notice of appeal specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken.
- C. Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from unless the Code Enforcement Officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case 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 Code Enforcement Officer and on due cause shown.

§ 215-109. Hearing; notices; decision.

- A. Hearing. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it.
- B. Notice. The Board of Appeals shall give due notice to the parties of the hearing of an appeal for administrative review or variance.

- C. Public notice of application for special permit. The Board of Appeals shall fix a reasonable time for the hearing of any application for a special permit. Notice of said hearing shall be published in a newspaper of general circulation in the Village of Caledonia at least five days prior to the date fixed for the hearing. Notice of such hearing shall also be given by ordinary mail at least five days prior to the date of hearing to all persons, firms or corporations owning property within 500 feet of the location of the property upon which the use is proposed to be established. At the hearing, any party may appear in person or by agent or by attorney, and the Board of Appeals shall decide the application for special permit within a reasonable time. All costs of such publication notice shall be paid by the applicant. **[Amended 7-7-2009 by L.L. No. 1-2009]**
- D. Public notice of application for variance. The Board of Appeals shall give public notice of an application for variance by one publication in the official newspaper of the Village of Caledonia five days prior to the date fixed for the hearing. Notice of such application for a variance shall also be given by regular mail to all persons, firms or corporations owning property within 500 feet of the location of the property for which a variance is requested at least five days prior to the date of hearing. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. **[Amended 7-7-2009 by L.L. No. 1-2009]**
- E. Upon the hearing, any party may appear in person or by agent or attorney.
- F. Time of decision. The Board of Appeals shall decide upon the appeal within 62 days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- G. Filing a decision and notice. The decision of the Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered and a copy thereof mailed to the applicant.
- H. Notice to park commission, parties or planning agency. At least five days before such hearing, the Board of Appeals shall mail notices thereof to the parties, to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal and to the county, metropolitan or regional planning agency as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in Subdivision 1 of § 239-m of the General Municipal Law.
- I. Compliance with State Environmental Quality Review Act. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617, of the New York Codes, Rules and Regulations.

§ 215-110. Scope.

The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have

been made in the matter by the administrative official charged with the enforcement of this chapter, and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

§ 215-111. Article 78 proceeding.

Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the village may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules, all as provided in Article 7 of the New York State Village Law.

§ 215-112. Rehearing.

The Board of Zoning Appeals may grant a rehearing on motion made by any member of the Board, subject to the provisions of the Village Law of the State of New York.

**ARTICLE XXII
Enforcement**

§ 215-113. Remedies.

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used in violation of this chapter, the proper local authorities of the village, in addition to other remedies, may institute any appropriate actions or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use on or about such premises.

§ 215-114. Penalties for offenses.

A. A violation of this chapter is hereby declared to be an offense, punishable as follows:

- (1) By a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense.
- (2) For conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both.
- (3) Upon conviction for a third or subsequent offense, all which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both.

B. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

ARTICLE XXIII
Amendments, Effect on Former Provisions

§ 215-115. Amendments.

The regulations, restrictions and boundaries established by this chapter may from time to time be amended, supplemented, changed or modified or repealed by local law as provided in § 7-708 of the Village Law.

§ 215-116. Effect on former provisions.

The adoption of this chapter shall not affect or impair any act done, offense committed or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this chapter takes effect under the prior Zoning Ordinance of the Village of Caledonia adopted November 15, 1994, and all subsequent amendments thereto, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this chapter had not been adopted. All actions and proceedings commenced under or by virtue of said former ordinance and the amendments thereto and pending at the time this chapter takes effect may be prosecuted and defended in the same manner as they might have been if this chapter had not been adopted.