

**ORDINANCE #2 OF 2008**

**ZONING ORDINANCE**

**VILLAGE OF VANDERBILT  
COUNTY OF OTSEGO  
STATE OF MICHIGAN**

**ADOPTED BY:  
VILLAGE OF VANDERBILT COUNCIL  
MAY 5, 2008**

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# **ZONING ORDINANCE OF THE VILLAGE OF VANDERBILT OTSEGO COUNTY, MICHIGAN**

## **PREAMBLE:**

An ordinance to provide for the establishment of Zoning Districts to encourage and regulate the use of land and the proper location of buildings and structures for residence, trade, industry, or other purposes; to regulate the height and bulk of buildings, the density of population, and the minimum dimensions of yards, courts, and other open spaces; to provide for the administration, enforcement, penalties for violation, and amendment to said Ordinance.

The Village of Vanderbilt Zoning Ordinance is enacted pursuant to P.A. 110 of 2006, as amended (the Michigan Zoning Enabling Act, M.C.L. 125.3101 through 125.3702).

## **ARTICLE I: SHORT TITLE**

This Ordinance shall be known as the Zoning Ordinance of the Village of Vanderbilt.

## **ARTICLE II: PURPOSES**

The purposes of this Zoning Ordinance are to promote and protect the public health, safety, morals, comforts, and general welfare of the people; to protect the character and the stability of the residential, business, and industrial areas within the Village; to promote the orderly and beneficial development of such development; and to provide for a living situation which is complementary and efficient to all residents of the Village.

## **ARTICLE III: ADMINISTRATION AND ENFORCEMENT**

### **Section 3.1 Administrative Offices**

The Village Council shall designate a person as Zoning Administrator. He/She shall be authorized and directed to administer and enforce all provisions of this Ordinance.

### **Section 3.2 Zoning Permits**

A zoning permit issued by the Zoning Administrator shall be required for any use of land, any building or structure that is to be erected, moved, enlarged, altered or razed where such activities involve changes to the dimensional requirements as stated in Section 5.10, change of use, or change to a non-conforming building/use; except as noted in Section 3.4. No permit shall be issued to erect a building or structure or make any changes of use unless they are in conformity with the provisions of this Ordinance and amendments duly enacted after the effective date of this Ordinance. Unless substantial construction is started within one (1) year from the date of issuance, the zoning permit shall be void.

### **Section 3.3 Application Requirements**

Applications for zoning permits shall include one (1) copy of a site layout or plot plan drawn to scale showing:

1. The location, shape, area, and dimensions of the lot.
2. The location, dimensions, height, and bulk of the existing and/or proposed structures, to be erected, altered or moved on the lot.
3. The intended uses.
4. The proposed number of dwelling units or the primary uses of the proposed facilities.
5. The yard, open space, and parking space dimensions.
6. Any other information deemed necessary for the Zoning Administrator to determine and provide for the enforcement of this Ordinance.

### **Section 3.4 Zoning Permit Use**

The zoning permit shall be required to secure the designated building permit and must be presented at the time of application for the building permit. In cases where a building permit is not required, a zoning permit shall not be required, except as provided in Section 6.1.2 (Accessory Buildings) and Section 6.4 (Fences). Regardless of whether or not a building permit is required, all applicable setback requirements for the district shall be met.

### **Section 3.5 Inspection**

The development or usage proposed by any issued zoning permit shall be subject to inspection after the structural location has been staked.

### **Section 3.6 Fees Schedule and Escrow Account for Zoning Fees**

1. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Village, the Village Council may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:
  - a. Building and zoning permits.
  - b. Sign Permits.
  - c. Special use permits.
  - d. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Village Council, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
  - e. Classification of unlisted property uses.
  - f. Requests for variances from the Zoning Board of Appeals.
  - g. Requests for rezoning of property by individual property owners. Rezoning of property initiated by the Village Council, or the Planning Commission shall not be subject to a zoning fee.
  - h. Site plan reviews.
  - i. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

2. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning

Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Village Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Village in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

### **Section 3.7 Enforcement**

The Zoning Administrator shall enforce the provisions of this Ordinance. Violations of any provisions of this Ordinance are declared to be a nuisance per se. Any action which is thought to be in violation of this Ordinance shall be reported to the Zoning Administrator.

#### **Section 3.7.1 Inspection of Violation**

The Zoning Administrator shall inspect each alleged violation and shall order correction in writing of all conditions found to be in violation of this Ordinance.

#### **Section 3.7.2 Correction Period**

All violations shall be corrected within sixty (60) days after the order to correct is issued or such longer period of time, not to exceed six (6) months, as the Zoning Administrator shall permit. A violation not corrected within this period shall be reported to the Village Attorney who is hereby authorized to and shall initiate procedures to eliminate such violations.

#### **Section 3.7.3 Penalties**

1. Any person, partnership, limited liability company, corporation, or association who creates or maintains a nuisance per se as defined in this section or who violates or fails to comply with any provisions of this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offence under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.
2. Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, razed, or converted in violation of this Ordinance or in violations of any regulations, conditions, permits, or other rights granted, adopted, or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.
3. The Village Zoning Administrator is hereby designated as the authorized village official to issue municipal civil infraction notices and citations.

4. In addition to enforcing this Ordinance as a municipal civil infraction, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

### **Section 3.8 Conflicting Regulations**

In the interpretation of this Ordinance, this Ordinance shall rule unless there exists a conflict with a regulation, deed restriction, or private covenant, which is more stringent in which case the more stringent regulation will rule.

### **Section 3.9 Water and Sewer Requirements**

Before any zoning permit or Certificate of Occupancy is issued, evidence shall be presented which illustrates that the subject property is capable of meeting all health laws regulating private water and sewer systems.

## **ARTICLE IV: ZONING BOARD OF APPEALS**

### **Section 4.1 Establishment**

There is hereby established a Village Zoning Board of Appeals in accordance P.A. 110 of 2006, as amended (the "Michigan Zoning Enabling Act"). The Zoning Board of Appeals shall perform its duties and exercise its powers in such a way that the objectives of this Ordinance may be achieved; that there shall be provided a means of competent interpretation and controlled flexibility in the application of this Ordinance; and that the public health, safety, and welfare of the public is secured.

### **Section 4.2 Membership**

As permitted by the Michigan Zoning Enabling Act (P.A. 110 of 2006), the Village Council shall act as the Village of Vanderbilt Zoning Board of Appeals.

The Village Council may appoint not more than two (2) alternate members for the same term as regular members. An alternate member may be called to serve as a member in the absence of a regular member, if the regular member is unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict. The alternate member shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member.

A member of the Zoning Board of Appeals may be removed for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself/herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself/herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

### **Section 4.3 Expenses**

The total amount allowed for the Zoning Board of Appeals in one (1) year as per diem or as expenses actually incurred in the discharge of its duties shall be appropriated annually by the Village Council.

### **Section 4.4 Terms of Office**

The term of office for each member of the Zoning Board of Appeals shall be the same as for that member's term of office on the Village Council.

#### **Section 4.5 Required Hearings**

The Zoning Board of Appeals shall hear and decide questions that arise in the administration of this Ordinance, including the interpretation of the Zoning Map, and considering variances. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcing this Ordinance.

#### **Section 4.6 Meetings**

The Zoning Board of Appeals shall hold one organizational meeting each year, preferably in the first quarter to select officers. The Zoning Board of Appeals shall not conduct business unless a majority of the regular members are present. Meetings shall be held at the call of the chairperson and at other times as the Zoning Board of Appeals in its rules of procedure may specify. The Zoning Board of Appeals shall maintain a record of its proceedings, which shall be filed in the office of the Village Clerk. All meetings shall be open to the public. The Zoning Board of Appeals shall adopt its own rules of procedure for meetings.

#### **Section 4.7 Appeals**

An appeal to the Zoning Board of Appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of the Village. The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the denial or revocation of special use or PUD permits, except to determine if correct procedures were followed.

#### **Section 4.8 Grounds for Appeal**

The grounds for any determination shall be stated in the records of the Zoning Board of Appeals proceedings.

#### **Section 4.9 Timing of Appeal**

An appeal shall be taken within such time as prescribed by the Zoning Board of Appeals by general rule, by filing with the officer from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

#### **Section 4.10 Stays**

An appeal stays all proceedings in furtherance of the action appealed from unless the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, in which case proceedings may be stayed by a restraining order issued by the Zoning Board of Appeals or a Circuit Court.

#### **Section 4.11 Interpretations**

The Zoning Board of Appeals shall have the power to hear and decide upon requests for interpretation of the provisions of this Ordinance and accompanying Zoning Map as follows:

1. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.
2. Determine the precise location of the boundary lines between Zoning Districts.
3. Classify a use which is not specifically mentioned a part of the use regulations of any Zoning District so that it conforms to a comparable permitted or prohibited use, in accordance with the purposes and intent of each district.

4. Determine the off-street parking and loading space requirements when it is clear that an amount above the minimums as established in this Ordinance will be necessary.

#### **Section 4.12 Variances**

The Zoning Board of Appeals shall have the power to grant non-use or dimensional variances relating to the construction, structural changes, or alterations of buildings or structures, so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done. A dimensional variance may be granted only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing the following:

1. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.
2. That the need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density, or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
4. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the neighborhood or zoning district.
5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

The Zoning Board of Appeals has no jurisdiction in the granting of use variances.

#### **Section 4.13 Time, Notice, Appearance**

Following written request concerning an appeal of an administrative decision, a request for an interpretation of the Zoning Ordinance or Zoning Map, or a request for a variance, the Zoning Board of Appeals shall fix a reasonable time for the hearing, after giving the following applicable notice:

1. For a request for a variance, a notice shall be published in a newspaper of general circulation in the Village not less than fifteen (15) days before the date the application will be considered. The notice shall describe the nature of the request, indicate the address of the property in question, state when and where the request will be considered, and indicate when and where written commits will be received. Notice shall also be sent to the owners of the property in question, by mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property in question, and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
2. For an interpretation or an appeal, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation in the Village not less than fifteen (15) days before the hearing date and shall be sent to the person requesting the interpretation or appeal. If the request for an interpretation or appeal involves a specific parcel, written notice stating the nature of the request and the time, date, and place of the public hearing shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question.

Any party may appear at the hearing in person or may be represented by his/her agent or attorney. The Zoning Board of Appeals shall render a decision within a reasonable period of time, not to exceed forty-five (45) days.

In deciding upon matters referred to, or upon which it is required to act under this Ordinance, the Zoning Board of Appeals shall after public notice and hearing, take into consideration the public health, safety, and general welfare and apply appropriate conditions and safeguards in conformity with the general purpose and intent of this Ordinance.

**Section 4.14 Powers of the Zoning Board of Appeals**

The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

**Section 4.15 Approval Periods**

No order of the Zoning Board of Appeals permitting the erection of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of the permit.

**Section 4.16 Final Action on Appeals**

The decision of the Zoning Board of Appeals shall be final at the Village level. Any party aggrieved by the decision may appeal to the Circuit Court for Otsego County. An appeal under this section shall be filed within thirty (30) days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision.

**ARTICLE V: DISTRICT REGULATIONS**

**Section 5.1 General Provision**

**Section 5.1.1 Establishment of Districts**

For the purpose of promoting the public health, safety, morals, convenience, and general welfare, the area within the Village of Vanderbilt is hereby divided into the following districts:

A-1	Agriculture District
R-1	Single Family / Two Family Residential District
R-2	Multiple Family District
B-1	Local Business District
B-2	Highway Business District
M-1	Industrial District
MH	Mobile Home Park District

**Section 5.1.2 Zoning District Map**

The boundaries of these districts are hereby defined and established as shown on a map entitled "Zoning District Map of the Village of Vanderbilt, Otsego County, Michigan" which accompanies this Ordinance, and which, with all explanatory matter, is hereby made a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk, and contain the following words: "This is to certify that this is the official Zoning Map referred to in Article V, Section 5.1.2 of the Village of Vanderbilt Zoning Ordinance adopted on May 5, 2008."

If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall not

be considered final, and zoning permits shall not be issued until changes have been made on the Official Zoning Map. Such changes shall be made within three (3) normal working days after the effective date of the Ordinance amendment. Each change shall be accompanied by a reference number on the map which shall refer to the official action of the Village Council. Two (2) copies of the Official Zoning Map are to be maintained and kept up to date; one (1) in the Village Clerk's office and one (1) in the Zoning Administrator's office.

**Section 5.1.3 Interpretation of District Boundaries**

1. Boundaries indicated as following the streets, alleys, highways, or other mode of conveyance, or their center lines, shall be deemed to follow the center lines of such rights-of-way.
2. Boundaries which are indicated as approximately following lot lines or boundary lines shall be construed as following such legally placed lines.

**Section 5.1.4 Scope of Regulations**

No building or structure, or part thereof, shall be, after the adoption of this Ordinance, moved, constructed, or altered, and no new use or change in use shall be made unless in conformity with the provisions of this Ordinance and with the regulations specified for the district in which it is located.

**Section 5.2 A-1 – Agricultural District**

**Section 5.2.1 Intent and Purpose**

This district is intended to preserve, enhance, and stabilize existing areas within the Village which are presently used predominately for general farming and areas which, because of various physical characteristics, should be conserved for agricultural use. In addition, premature urban development within rural areas can result in increased public costs because of the necessity of additional public services. It is, therefore, the purpose of this district to promote the orderly and harmonious development of the Village by preserving these lands from premature urban development and to preserve the essential characteristics and economic value of this district as agricultural lands.

To achieve these objectives, permitted uses, within this district are limited to agricultural, rural residential, and other uses which as listed will not be harmful to the agricultural orientation.

**Section 5.2.2 Uses Permitted**

All uses shall conform to those outlined in Section 5.9 for the A-1 District.

**Section 5.2.3 Accessory Buildings (such as garages, storage, but not limited to)**

Any building or structure which is deemed an accessory to and any part of any use permitted in this district shall be permitted so long as the dimensional requirements for principal buildings and structures in this district are followed.

**Section 5.2.4 Dimensional Requirements**

All uses permitted in this district shall conform to the dimensional requirements as outlined in Section 5.10 for the A-1 District.

**Section 5.2.5 Parking Requirements**

All parking requirements shall conform to those set forth in Article XII of this Ordinance.

## **Section 5.3 R-1 Single Family / Two Family Residential District**

### **Section 5.3.1 Intent and Purpose**

This district is intended to provide for a diverse residential environment where both single family and two family dwellings can be accommodated side by side. It provides for a mixture of these two housing types and thereby offers a greater choice in living environments for Village residents.

### **Section 5.3.2 Uses Permitted**

All uses shall conform to those outlined in Section 5.9 for the R-1 District.

### **Section 5.3.3 Accessory Buildings**

Any building or structure which is deemed an accessory to and any part of any use permitted in this district shall be permitted so long as the dimensional requirements for principal buildings and structures in this district are followed.

### **Section 5.3.4 Dimensional Requirements**

All uses permitted in this district shall conform to the dimensional requirements as outlined in Section 5.10 for the R-1 District.

### **Section 5.3.5 Parking Requirements**

All parking requirements shall conform to those set forth in Article XII of this Ordinance.

## **Section 5.4 R-2 Multiple Family District**

### **Section 5.4.1 Intent and Purpose**

This district is developed to accommodate a mixture of housing types such as single family structures, mobile homes, and structures designed to provide boarding and lodging houses under specific maximum capacities; and to serve the limited needs for garden apartments, townhouses, and other group housing facilities similar in character and density.

### **Section 5.4.2 Uses Permitted**

All uses shall conform to those outlined in Section 5.9 for the R-2 District.

### **Section 5.4.3 Accessory Buildings**

Any building or structure which is deemed an accessory to and any part of any use permitted in this district shall be permitted so long as the dimensional requirements for principal buildings and structures in this district are followed.

### **Section 5.4.4 Dimensional Requirements**

All uses permitted in this district shall conform to the dimensional requirements as outlined in Section 5.10 for the R-2 District.

### **Section 5.4.5 Parking Requirements**

All parking requirements shall conform to those set forth in Article XII of this Ordinance.

## **Section 5.5 B-1 Local Business District**

### **Section 5.5.1 Intent and Purpose**

The local business district is designed to provide convenient, day-to-day retail shopping and service facilities for persons residing in adjacent residential areas with a minimum impact upon surrounding residential development.

### **Section 5.5.2 Uses Permitted**

All uses shall conform to those outlined in Section 5.9 for the B-1 District.

### **Section 5.5.3 Accessory Buildings**

Any building or structure which is deemed an accessory to and any part of any use permitted in this district shall be permitted so long as the dimensional requirements for principal buildings and structures in this district are followed.

### **Section 5.5.4 Dimensional Requirements**

All uses permitted in this district shall conform to the dimensional requirements as outlined in Section 5.10 for the B-1 District.

### **Section 5.5.5 Parking Requirements**

All parking requirements shall conform to those set forth in Article XII of this Ordinance.

## **Section 5.6 B-2 Highway Business District**

### **Section 5.6.1 Intent and Purpose**

This district is designated to accommodate retail business and service activities which serve the particular needs of the highway traveler and to provide a suitable area for those businesses which are integrally related to the automobile.

### **Section 5.6.2 Uses Permitted**

All uses shall conform to those outlined in Section 5.9 for the B-2 District.

### **Section 5.6.3 Accessory Buildings**

Any building or structure which is deemed an accessory to and any part of any use permitted in this district shall be permitted so long as the dimensional requirements for principal buildings and structures in this district are followed.

### **Section 5.6.4 Dimensional Requirements**

All uses permitted in this district shall conform to the dimensional requirements as outlined in Section 5.10 for the B-2 District.

### **Section 5.6.5 Parking Requirements**

All parking requirements shall conform to those set forth in Article XII of this Ordinance.

## **Section 5.7 M-1 Industrial District**

### **Section 5.7.1 Intent and Purpose**

This district is established to provide location and space for all types of industrial, wholesale, and storage facilities. In order to allow optimum service to activities of this nature, residential uses, uses incidental to residential development, and most retail commercial uses are excluded from these districts.

**Section 5.7.2 Uses Permitted**

All uses shall conform to those outlined in Section 5.9 for the M-1 District.

**Section 5.7.3 Accessory Buildings**

Any building or structure which is deemed an accessory to and any part of any use permitted in this district shall be permitted so long as the dimensional requirements for principal buildings and structures in this district are followed.

**Section 5.7.4 Exclusions to Maximum Height**

Incidental accessories such as mechanical equipment, stacks, and water towers are exempt from the height restrictions stipulated for this district.

**Section 5.7.5 Dimensional Requirements**

All uses permitted in this district shall conform to the dimensional requirements as outlined in Section 5.10 for the M-1 District.

**Section 5.7.6 Parking Requirements**

All parking requirements shall conform to those set forth in Article XII of this Ordinance.

**Section 5.8 Mobile Home Park District**

**Section 5.8.1 Intent, Purpose, and Site Criteria**

1. This district is designed for the placement of mobile home parks in those areas which provide the maximum living situation and benefits to the mobile home dweller and the Village. They are designed so that physical, economic, and access considerations will be major criteria in mobile home developments.
2. Mobile home districts should have access to an improved major street and be so located as to provide minimal disruption to established patterns of Village development. The site should also be capable of providing other necessary living amenities for its residents, such as play space, landscaping, and the like.

**Section 5.8.2 Uses Permitted**

All uses shall conform to those outlined in Section 5.9 for the MH District.

**Section 5.8.3 Accessory Buildings**

Structures housing facilities which are considered necessary for permitted use, such as laundry, meeting rooms, mail rooms, and the like shall be permitted provided they meet the dimensional requirements of this district.

**Section 5.8.4 Dimensional Requirements**

All uses permitted in this district shall conform to the dimensional requirements as outlined in Section 5.10 for the MH District.

**Section 5.8.5 Parking Requirements**

All parking requirements shall conform to those set forth in Article XII of this Ordinance.

## Section 5.9 Table of Uses by District

### A-1 Uses Permitted by Right

- Farming Operations
- Single Family Dwellings
- Family Adult Foster Care Homes
- Family Day Care Homes
- Public Buildings, such as schools, village and township facilities
- Public Recreational Facilities, such as parks and playgrounds
- Churches
- Cemeteries

### Uses Subject to Special Use Permit

- Home Occupations
- Commercial Kennels
- Group Adult Foster Care Homes
- Group Day Care Homes
- Communications Towers
- Commercial Recreational Facilities, such as golf courses, riding stables and campgrounds

### R-1 Uses Permitted by Right

- Single Family Dwellings
- Two Family Dwellings
- Family Adult Foster Care Homes
- Family Day Care Homes
- Public Buildings, such as schools, village and township facilities
- Public Recreational Facilities, such as parks and playgrounds
- Churches
- Cemeteries

### Uses Subject to Special Use Permit

- Home Occupations
- Group Adult Foster Care Homes
- Group Day Care Homes

### R-2 Uses Permitted by Right

- Single Family Dwellings
- Two Family Dwellings
- Family Adult Foster Care Homes
- Family Day Care Homes
- Public Buildings, such as schools, village and township facilities
- Public Recreational Facilities, such as parks and playgrounds
- Churches
- Cemeteries

### Uses Subject to Special Use Permit

- Home Occupations
- Group Adult Foster Care Homes
- Group Day Care Homes
- Multiple Family Dwellings

Day Care Centers  
Adult Foster Care Congregate Facilities, Assisted Living Facilities

**MH** Mobile Home Parks, consisting of three (3) or more mobile homes, licensed by the State of Michigan, as provided by the Mobile Home Commission Act, PA 96 of 1987, as amended.

**B-1** Uses Permitted by Right  
Retail Sales  
Office  
Restaurants, Taverns  
Public Parks, Buildings and Facilities  
Personal Services  
Banks and Credit Unions  
Medical Offices and Clinics  
Private Clubs and Lodge Halls  
Existing Dwelling Units

Uses Subject to Special Use Permit  
Service Stations  
Laundromats  
Bed and Breakfast Operations (with up to 5 non-resident guest rooms)  
Drive-through Service Windows  
Automobile Sales

**B-2** Uses Permitted by Right  
Uses permitted by right in the B-1 District  
Automobile Sales  
Motels and Lodging Facilities  
Casinos, and Gaming Facilities  
Indoor Commercial Recreation  
Tourist Facilities and Services  
Theaters and Assembly Halls

Uses Subject to Special Use Permit  
Uses Subject to Special Use Permit in the B-1 District  
Outdoor Sales or Storage Yards  
Lumber and Contractor Yards  
Outdoor Commercial Recreation  
Warehouse or Wholesale Uses  
Campgrounds and RV Parks  
Light Manufacturing which does not emit noxious odors, excessive noise, vibration, or particulate matter or pollutants above the legal levels by state and federal laws.

**M-1** Industry which does not emit noxious odors, excessive vibration, particulate matter, or pollutants above the maximum limits regulated by air quality standards above the legal levels by state and federal laws.

**Section 5.10 Dimensional Requirements by District**

District	Maximum Height	Minimum Lot Size	Average Lot Width	Minimum Yard Setbacks			Maximum Lot Coverage	Minimum Lot Area per DU	Minimum Ground Floor per DU	Minimum DU Width ***
				Front	Side	Rear				
A-1	50'	10 A	500'	25'	10'	10'	NA	NA	980 SF	14'
R-1	35'	12,000 SF **	80'	25'	8'	10'	25%	NA	1,100 SF	20'
R-2	35'	12,000 SF **	80'	25'	8'	10'	30%	4,00SF	980 SF	14'
B-1	35'	3,200 SF	25'	*	*	10'	80%	NA		
B-2	35'	8,500 SF	80'	25'	10'	10'	45%	NA		
M-1	40'	2 A	200'	40'	25'	25'	35%	NA		
MH	Following rules and regulations established by licensing agencies of the State of Michigan.									

Footnotes:

- \* Minimum yards are required when adjacent to an "R" District – adjacent "R" District regulations will apply.
- \*\* In order to reduce lot size to those presently platted within the Village, the Village will have to have public sewers, public water, zoning, and subdivision regulations.
- \*\*\* Minimum width across any front, side, or rear of the structure at ground floor level.

## **ARTICLE VI: SUPPLEMENTARY REGULATIONS**

### **Section 6.1 Supplementary Use Regulations**

#### **Section 6.1.1 Use of Structures for Temporary Dwelling**

No garage or other accessory building, tent, cabin, mobile home, or partial structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purpose for any length of time unless authorized by the Zoning Administrator by the issuance of a temporary permit not to exceed six (6) months (this permit can be renewed only once) to provide living accommodations during the construction of a permanent structure. Such a permit can only be issued after a building permit has been secured. The temporary permit can be renewed only in the event progress on the construction of the permanent structure is being made.

#### **Section 6.1.2 Accessory Buildings**

1. Authorized accessory buildings may be erected as a part of the principal building or may be connected to it by a roofed over porch, patio, breezeway, or similar structure, or they may be completely detached. If attached to the principal building, an accessory building shall comply in all respects with the requirements applicable to the principal building, except that it shall not be included in the calculation of the required floor area of the principal building. An accessory building not attached and not made a part of the principal building shall not be nearer than ten (10) feet from any other separate structure on the same lot and shall conform to all yard setback requirements.
2. Detached accessory buildings shall not be erected in any front yard or any required side or rear yard setback.
3. A zoning permit shall be required for a detached accessory building, regardless of the requirement for a building permit, but the regular zoning permit fee shall be reduced by fifty percent (50%).
4. Accessory buildings may be of pole construction, and all accessory buildings one hundred sixty eight (168) square feet or less may have a wooden or stone floor. All accessory building over one hundred sixty eight (168) square feet shall have a concrete floor, except for the A-1 District. (Ordinance 4 of 2007)
5. In the R-1 and R-2 Districts, the total floor area of all accessory buildings shall not exceed two hundred percent (200%) of the ground floor area of the principal building.
6. The total floor area of all accessory buildings shall not occupy more than thirty percent (30%) of the area of the non-required rear yard.
7. An accessory building may be constructed only when there is an existing principal building or when a building and zoning permit have been granted for the principal building. Construction of the principal building shall be completed within two (2) years of permit issuance.

### **Section 6.2 Supplementary Area Regulations**

#### **Section 6.2.1 Exception to Required Lot Area for Residential Districts**

Any residential lot created or recorded prior to the effective date of this Ordinance may be used for any permitted use even though the lot area and/or dimensions are less than those required for the district in which the lot is located, PROVIDED:

1. That the other requirements of the district are met.
2. That no adjacent land or lot is owned by the owner of the lot in question.

3. That no lot shall be so reduced in area that the required open space will be smaller than those established as a minimum for the district in which the lot is located.
4. That any lot so expected shall be no less than fifty (50) feet in width at the front setback line.

#### **Section 6.2.2 Lot Area can be Allocated Once**

No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for the construction of a proposed, or alteration of an existing building.

### **Section 6.3 Nonconforming Uses**

#### **Section 6.3.1 Intent and Purpose**

It is the intent of this Ordinance to permit the continuance of a lawful use of any building, structure, or land existing at the effective date of this Ordinance, although such use of building, structure, or land may not conform to the provisions of this Ordinance.

It is also recognized that such uses are incompatible with permitted uses in the districts involved; and it is the purpose of this Ordinance not to encourage the survival of these nonconforming uses, structures, and buildings. Further, it is the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor to be used as grounds for adding other buildings, structures, or uses prohibited elsewhere in the same district, except as provided for in Section 6.3.2. The continuance of all nonconforming uses, buildings, and structures within the Village shall be subject to the conditions and requirements set forth in this section.

#### **Section 6.3.2 Structural Changes or Enlargement**

A nonconforming building or structure or a building that contains a nonconforming use, where the nonconformity is due to a yard requirement, may be enlarged or altered in any way, provided such enlargement or alteration complies with the remaining required yard setbacks for the district in which the building or structure is located.

A basement, cellar, garage, or any incompletely constructed structure in use as a dwelling on the effective date of this Ordinance may be used as a dwelling following said date; however, owners are encouraged to bring such structures to completion in conformance with the regulations of this Ordinance relative to dwellings in the district in which the structure is located. If a vacancy in such a structure occurs, the provisions of Section 6.3.5 shall apply.

#### **Section 6.3.3 Repair of a Nonconforming Building**

Nothing in this Ordinance shall prohibit the repair, improvement, or modernization of a lawful nonconforming building to correct deterioration, obsolescence, depreciation, and wear, PROVIDED that such repair does not exceed an aggregate cost of thirty percent (30%) of the assessed value of the building unless the subject building is changed by such repair to a conforming use.

#### **Section 6.3.4 Reconstruction and Restoration**

If a nonconforming building or structure (including a nonconforming sign) or a building that contains a nonconforming use is damaged or destroyed by any means or is removed by the property owner, then such nonconforming building or structure may be restored, rebuilt, or repaired to its original configuration and on its original foundation.

### **Section 6.3.5 Discontinuance or Abandonment**

Whenever a nonconforming use has been discontinued for twelve (12) consecutive months, or for eighteen (18) months during any three (3) year period, and subsections 1-5 below are observed by the Zoning Administrator, such discontinuance shall be considered conclusive evidence of an intention to abandonment, the conforming use shall not be re-established, and any future use shall be in conformity with the provisions of this Ordinance.

When determining the intent of the property owner to abandon a nonconforming use and/or structure, the Zoning Administrator shall consider the following factors.

1. Whether utilities, such as water, gas, and electricity to the property have been disconnected.
2. Whether the property, buildings, and grounds have fallen into disrepair.
3. Whether signs or other indications of the existence of the nonconforming use have been removed.
4. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
5. Other information or action that evidences an intention on the part of the property owner to abandon the nonconforming use and/or structure.

### **Section 6.3.6 Changing Uses**

If no structural alterations are made, the Zoning Board of Appeals may authorize a change from one (1) nonconforming use to another nonconforming use, PROVIDED the proposed new use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming use or less conforming use.

### **Section 6.3.7 District Changes**

Whenever the boundaries of a district are changed to as to transfer an area from one district to another district of another classification, the provisions of this section shall apply to any existing uses that become nonconforming as a result of the boundary change.

### **Section 6.3.8 Elimination of Nonconforming Use**

The Village Council may acquire properties on which nonconforming buildings or uses are located, by condemnation or other means, and may remove such uses provided the reuse is not for public housing, and shall be declared to be for public purpose by the Village. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

## **Section 6.4 Fences**

1. Any person desiring to construct, enlarge, alter or reconstruct a fence shall file a written application with the Zoning Administrator and pay fifty percent (50%) of the regular zoning permit fee. The application shall contain a drawing of the proposed location of the fence on the property, the type of fencing material to be used, the legal description of the property on which the fence is to be located, and such other information as the Zoning Administrator may require to determine that the fence will not violate any provisions of this Ordinance or state law.
2. Any fence lawfully existing at the time this amendment becomes effective may continue to exist even though it does not conform to the conditions of this section. However, such nonconforming fences shall not be enlarged, altered or reconstructed unless the fence is made to conform to the provisions of this section, a permit is obtained, and the required fee

is paid. Nonconforming fences shall be kept repaired and maintained or removed as required in subsection 3g, which may be done without a permit.

3. General Requirements:
  - a. All fences shall be located entirely on the applicant's property. A fence may be constructed on the common property line between two (2) lots if the owners of both lots jointly apply for the fence permit. However, the person desiring to construct the fence shall pay the required fee.
  - b. In the installation of any fence, the property owner is responsible for the location of property lines and should obtain a professional survey if necessary to determine accurate property lines. The Village of Vanderbilt shall not be held responsible for any property line or fence disputes between adjacent property owners.
  - c. Portions of the fence facing property other than the fence owner's property or facing a street right-of-way shall be finished so that the fence posts and horizontal and/or vertical fence supports are not visible from the other property or the street right-of-way.
  - d. In the instance where a fence is totally enclosed, a gate shall be provided. Gates shall not swing over a public street right-of-way, but must swing open over the fence owner's property.
  - e. No fence shall be constructed or maintained which is charged or connected with an electric current that can cause an electric shock upon contact.
  - f. Except in the A-1 and M-1 Districts, no barbed wire fence shall be constructed or maintained. No spikes, nails, barbs or other pointed instruments shall be affixed to any fence in any district.
  - g. All fences shall be maintained in good condition and shall not constitute a safety hazard. The property owner shall be required to remove any fence not maintained.
  - h. No fence shall obstruct the clear vision for traffic on any street or road within the Village of Vanderbilt.
4. Requirements in the R-1 and R-2 Districts. In addition to the general requirements of subsection 3 above, the following regulations apply to all fences in the R-1 and R-2 Districts:
  - a. Fences located in the front yard shall not exceed a height of four (4) feet, as measured vertically from the natural grade of the ground prior to fence construction.
  - b. Fences located in a rear or side yard shall not exceed a height of six (6) feet, as measured vertically from the natural grade of the ground prior to fence construction. However, a fence located in a side yard shall not extend closer to the front lot line than the front of the principal building, unless the height is reduced to not exceed four (4) feet.
5. Requirements in the A-1 District. In addition to the general requirements of subsection 3 above, the following regulations apply to all fences in the A-1 District:
  - a. Fences for the enclosure of farm animals may be constructed to a height not to exceed six (6) feet along any side of the property, and barbed wire strands may be used.
  - b. Fences used for residential purposes in the A-1 District shall adhere to the R-1 and R-2 District provisions of subsection 4 above.
6. Requirements in the B-1, B-2 and M-1 Districts. In addition to the general requirements of subsection 3 above, the following regulations apply to all fences in the B-1, B-2 and M-1 Districts:
  - a. Fences shall not be constructed within that portion of a front yard between the street right-of-way and the front side of the principal building, unless approved by the Planning Commission as part of site plan review.
  - b. Fences in a rear or side yard shall not exceed a height of eight (8) feet, as measured vertically from the natural grade of the ground prior to fence construction.

### **Section 6.5 Mobile Homes on Individual Lots or Parcels**

Mobile homes sited on individual lots or parcels and not in a mobile home park shall meet the standards for minimum lot size, yard set-backs, minimum floor area and minimum dwelling unit width for the district in which they are located and shall meet the following additional standards:

1. The unit shall meet the building code in effect at the time of placement in Otsego County for mobile homes.
2. The unit construction shall meet the snow load requirements for Otsego County.
3. The unit shall be firmly attached to a permanent foundation and shall be secured to the foundation by an anchoring system complying with the Michigan Mobile Home Commission Rules. The unit shall be installed according to the manufacturer's setup instructions and shall have a perimeter wall constructed of such material and types as required in the applicable building code.
4. The mobile home shall be installed with the wheels removed, and no unit shall have any exposed towing mechanism, under carriage or chassis.
5. A mobile home shall not be used as an accessory building.

## **ARTICLE VII: AMENDMENTS**

### **Section 7.1 The Village Council may Amend**

The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Official Zoning Map of the Village of Vanderbilt may be amended, supplemented, or changed by the Village Council, in the manner as provided by the Michigan Zoning Enabling Act (Act 110 of the Public Acts of 2006), as amended.

### **Section 7.2 Initiation**

Proposals or supplements may originate with the Village Council, the Village Planning Commission, the Zoning Board of Appeals, or by written petition by any property owner in the Village. Petition by property owner shall be accompanied by the fee adopted by the Village Council to cover the cost of advertising public hearing and investigation.

### **Section 7.3 Filing of Application**

All petitions for amendment to this Ordinance or Official Zoning Map shall be in writing, signed and filed with the Zoning Administrator with appropriate fee, for presentation to the Village Planning Commission. All petitions for amendments to this Ordinance shall contain, but not be limited to:

1. The petitioner's name, address and interest.
2. The name, address, and interest of every person, association, firm, or corporation having a legal or equitable interest in the land.
3. The nature and effect of the proposed amendment.
4. A fully dimensioned map, showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning classification, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration.

### **Section 7.4 Hearing and Notice**

Before submitting its recommendations on a proposed amendment to the Village Council, the Planning Commission shall hold not less than one (1) public hearing, notice of which shall be given by one (1) publication in a newspaper of general circulation in the Village not less than fifteen (15) days before the date of the hearing. Not less than fifteen (15) days notice of the

time and place of the hearing shall also be given by mail to each electric, gas, pipeline, and telephone public utility company, and to each railroad operating within the district or zone affected, that registers its name and mailing address with the Village for the purpose of receiving such notices. An affidavit of mailing shall be maintained.

If an individual property or ten (10) or fewer adjacent properties are proposed for rezoning, the Village Planning Commission shall give notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed as determined by the most recent tax roll, and to the occupants (if other than the property owner) of all single-family and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the Notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be made not less than fifteen (15) days before the hearing.

The notice shall do all of the following:

1. Describe the nature of the request.
2. Indicate the property that is the subject of the request and include a listing of all existing street addresses within the property. Street addresses need not be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
3. State when and where the request will be considered.
4. Indicate when and where written comments will be received concerning the request.
5. Include the places and times at which the tentative text and any maps of the Zoning Ordinance may be examined.

If eleven (11) or more adjacent properties are proposed for rezoning, individual notices are not required.

#### **Section 7.5 Action by Planning Commission**

The Planning Commission shall hold the required public hearing as noticed. The Planning Commission shall submit its recommendations and a summary of comments received at the public hearing along with the proposed amendment, including any zoning maps, to the Village Council

#### **Section 7.6 Action by Village Council**

Upon receipt of the transmittal, the Village Council shall commence final consideration of the Planning Commission's recommendation. In this regard, the Village may decide to hold additional hearings on the proposed amendment, if in its judgment, it deems that further hearings may be necessary. Notice of such addition hearing shall be published in a newspaper of general circulation not less than fifteen (15) days before the hearing. In the event the Village Council considers further amendments, changes, additions or departures to the initial recommendation by the Planning Commission, the Village Council shall refer these further amendments, changes, additions or departures back to the Planning Commission for a report on such additional matters by a specified date. After receiving the report, the Village Council shall grant a hearing on a proposed amendment to any property owner, who by certified mail, addressed to the Village Clerk, requests a hearing. Thereafter, at a regular or special meeting properly called, the Village Council may adopt the proposed amendment by a majority vote of its membership with or without amendments that have been previously considered by the Planning Commission or at a hearing.

### **Section 7.7 Notice of Adoption**

Following Village Council adoption, the amendments or supplements shall be filed with the Village Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation within fifteen (15) days after adoption. The notice of adoption shall include the following:

1. A summary of the regulatory effect of the amendment, including the geographic area(s) affected, or the text of the amendment as adopted.
2. The amendment shall take effect eight (8) days after publication or at such later date after publication as specified by the Village Council.
3. The place and time where a copy of the amendment may be purchased or inspected.

### **Section 7.8 Re-submittal Procedure**

No petition for rezoning, which has been disapproved by the Village Council shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted by the Village Council after learning of new and significant facts or conditions which might result in a favorable action upon re-submittal.

## **ARTICLE VIII: DEFINITIONS**

### **Section 8.1 Rules Applying to the Text**

1. Words used in the present tense include the future tense; and singular includes the plural, unless the context clearly indicates the contrary.
2. The word "building" includes the word "structure".
3. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
4. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".
5. Any word or term not interpreted or defined in this Article shall be used with a meaning or common or standard utilization.

### **Section 8.2 Definitions**

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

**Accessory Building:** A subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied by or devoted exclusively to an accessory use.

**Accessory Use:** A use customarily incidental or subordinate to the principal use or building located on the same lot as the principal use or building.

**Adult Foster Care Congregate Facility:** A state licensed facility with approved capacity to receive more than twenty (20) adults to be provided with twenty four (24) hour care. This definition is described under the Adult Foster Care Licensing Act, Public Act 218 of 1979, as amended.

**Adult Foster Care Home, Family:** A private residence with approved capacity to receive six (6) or fewer adults to be provided with twenty four (24) hour care for five (5) or more days a week

and for two (2) or more consecutive weeks. A member of the household or an occupant of the residence shall hold the family adult foster care home license. This definition is described under the Adult Foster Care Licensing Act, Public Act 218 of 1979, as amended.

**Adult Foster Care Home, Group:** A state licensed facility with approved capacity to receive more than six (6) but not more than twenty (20) adults to be provided with twenty four (24) hour care. This definition is described under the Adult Foster Care Licensing Act, Public Act 218 of 1979, as amended.

**Alley:** Any dedicated public way other than a street which provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

**Alterations:** Any modification, additions, or change in construction or type of occupancy; any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing in height; or the moving from one location to another.

**Alternative Tower Structure:** Clock towers, bell steeples, light poles, water towers and other similar alternative-design mounting structures that camouflage or conceal the presence of communication antennas.

**Antenna:** Any exterior transmitting or receiving device mounted on a tower, building or alternative tower structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless communications signals or other communication signals. This definition does not include satellite dish antennas.

**Apartment:** A room or suite of rooms, including bath and kitchen facilities, in a two family or multiple family dwelling intended or designed for use as a residence by a single family.

**Assisted Living Facility:** A variety of living arrangements, such as (but not limited to) convalescent homes, nursing homes, adult foster care facilities, skilled nursing homes and independent living facilities.

**Basement:** A story having part but not more than one half (1/2) of its height below finished grade. A basement shall be counted as a story for the purposes of height measurement in the vertical distance between the ceiling and the average level of the adjoining ground between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes.

**Boarding House:** A building other than a hotel, where for compensation and by prearrangement for definite periods, meals and lodging are provided for three (3) or more persons.

**Building:** Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or property.

**Building Area:** The total of areas taken on a horizontal plane at the main grade level of the principal building, and all accessory buildings exclusive of uncovered porches, terraces, and steps.

**Building, Front Line of:** The line formed by the face of the building nearest the front line of the lot. This face includes sun parlors and enclosed porches, but does not include steps.

**Building, Height of:** The vertical distance measured from the mean elevation of the finished grade line of the ground about the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

**Building, Principal:** A building in which is conducted the main or principal use of the lot on which it is located.

**Clinic:** An establishment where human patients who are not lodged overnight are admitted for examinations and treatment by a group of physicians, dentists, or similar professions.

**Club:** An organization catering exclusively to members and their guests, or premises and buildings for recreational, artistic, political, or social purposes, which are not conducted primarily for gain, and which do not provide merchandising, vending, or commercial activities except as required incidentally for the membership and purposes of such club.

**Co-location:** The use of a wireless communication tower or alternative tower structure by more than one wireless communication provider.

**Common Land:** A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupant of the individual building units in a Planned Unit Development.

**Communications Towers:** All structures and accessory facilities, including alternative tower structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**Condominium Unit:** That portion of the site condominium project designed and intended for separate ownership and use, as described in the master deed.

**Convalescent or Nursing Home:** A building where infirm, aged, or incapacitated persons are furnished shelter, care, food, lodging, and needed attention for compensation.

**Coverage:** That percent of the plot or lot covered by the building area.

**Day-care Center:** A facility other than a private residence which receives preschool or school age children for care. A day-care center is further defined and regulated by the State of Michigan under Public Act 116 of 1973, as amended, being Section 722.111 of the Michigan Compiled Laws.

**Day-care Home, Family:** A facility regulated through a registration process and provides care for six (6) or fewer unrelated children in a residential dwelling. A family day-care home is further defined and regulated by the State of Michigan under Public Act 116 of 1973, as amended, being Section 722.111 of the Michigan Compiled Laws.

**Day-care Home, Group:** A facility regulated through a licensing process and provides care for seven (7) to twelve (12) unrelated children in a residential dwelling. A group day-care home is further defined and regulated by the State of Michigan under Public Act 116 of 1973, as amended, being Section 722.111 of the Michigan Compiled Laws.

**Density:** The number of dwelling units residing upon, or to be developed upon the net area of a site.

**District:** An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard regulations, and height limitations.

**Dwelling, Single Family:** A detached building designed for or occupied exclusively by one (1) family.

**Dwelling, Two Family:** A detached or semi-detached building designed for or occupied exclusively by two (2) families living independently of each other.

**Dwelling, Multiple Family:** A building, or portion thereof, used or designed to contain separate living units for three (3) or more families, but which have joint services or facilities or both.

**Dwelling, Row House or Town House:** Three (3) or more one family dwelling units each having access on the first floor and with common walls separating the dwelling units.

**Dwelling Unit:** A building, or portion thereof, designed exclusively for residential occupancy by one (1) family, and having cooking facilities.

**Erecting:** The building, construction, alteration, reconstruction, moving upon, or any physical activity upon a premises or lot.

**Essential Services:** The erection, construction, alteration or maintenance of public utilities or municipal facilities for underground, surface or overhead gas, electrical, steam, fuel, or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm or police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety or welfare. Communications towers and facilities, alternative tower structures, and wireless communication antennas are not included within this definition.

**Family:** An individual, a collective number of individuals related by blood, marriage, adoption, or legally established relationships, such as guardianship or foster care, or a collective number of unrelated individuals whose relationship is of a permanent and distinct domestic character who occupy a single dwelling and live as a single nonprofit housekeeping unit with single culinary facilities. A family, however, shall not include any society, club, fraternity, sorority, association, lodge, or group of individuals, whether related or not, whose association or living arrangement is temporary or resort-seasonal in character or nature.

**Farm:** Any parcel of land containing at least ten (10) acres which is use for gain in the raising of agricultural products, livestock, poultry, and dairy products. It includes necessary farm structure within prescribed property boundaries, and the storage of equipment used. It excludes the raising of fur bearing animals, riding academies, livery or boarding stables, and dog kennels.

**Fence:** A structure, other than a building, which is a barrier and used as a boundary or means of protection, screening, or confinement. Fences may be constructed of brick, stone, wooden boards, split rail, wrought iron, decorative concrete blocks, decorative chains, decorative rope, chain link or similar materials. Building materials such as plywood, metal roofing material and similar materials shall not be considered acceptable for fences.

**Flood Plain:** Areas subject to inundation by the highest expected flood water level.

**Floor Area:** The sum of the gross horizontal areas of the floors of a building or dwelling unit, measured from the exterior faces of the exterior walls, or from the center line of walls separating dwelling units.

**Garage, Private:** An accessory building or an accessory portion of a principal building designed or used solely for the storage of noncommercial motor vehicles, boats, recreational vehicles, and similar vehicles owned and used by the occupants of the building to which it is accessory.

**Gasoline Service Station:** Any area of land, including any structure or structures thereon, that is used or designed for the supply of gasoline or oil or other fuel for the propulsion of vehicles. For the purpose of this Ordinance, this term shall also mean any area or structure used or designed for polishing, greasing, washing, dry cleaning, spraying (but not including painting), or otherwise cleaning or servicing of motor vehicles.

**Grade, Finished:** The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs related to the site.

**Group Housing:** A residential development involving the ultimate construction of a group of dwelling units, including a combination of one family, two family, or multiple family dwellings on a lot, parcel, or tract of land, or on a combination of lots under one ownership, and containing common services or facilities.

**Guest Unit:** A room or group of rooms occupied, arranged, or designed for occupancy by one (1) or more guests for compensation.

**Home Occupation:** An accessory use of a service or professional character conducted within a dwelling or an accessory building on the same premises, which is clearly secondary and incidental to the use of the premises for residential purposes and does not change the character thereof.

**Hotel:** A building in which the rooms are occupied or designed for temporary abiding places for individuals who are lodged with or without meals and in which there are more than five (5) sleeping rooms served only by the general kitchen and dining facility located within the building.

**Junk Yard:** Any land or building over two hundred (200) square feet in area used for abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metal, other scrap or

discarded material, or for abandonment, demolition, dismantling, storage, or salvaging of automobiles or other vehicles or machinery, or parts thereof.

**Kennel:** Any establishment which keeps or boards animals for profit, whether for breeding, sale, or sporting purposes.

**Line, Street:** The dividing line between a street right-of-way and a lot.

**Lodging House:** A building in which three (3) or more rooms are rented to not more than five (5) persons.

**Lot:** A parcel of land, either described by meets and bounds or by reference to a recorded plat, or a site condominium unit created in a recorded master deed, occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width required by this Ordinance for the zoning district in which it is located.

**Lot, Corner:** A lot which has at least two contiguous sides abutting upon a street for their full length.

**Lot, Depth of:** The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

**Lot, Interior:** A lot other than a corner lot.

**Lot Lines:** The property lines bounding a lot, or two or more lots used as one development site.

**Lot Line, Front:** In the case of a corner lot or through lot, it is the line separating the lot from the abutting public or private road right-of-way. In the case of an interior lot, it is the line separating the lot from the abutting public or private road right-of-way. In the case of a waterfront lot, it is the ordinary high water mark.

**Lot Line, Rear:** The lot line opposite and most distant from the front lot line. In the case of a lot irregularly shaped at the rear, it is an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.

**Lot Line, Side:** A lot line other than a front lot line or rear lot line. A side lot line separating a lot from an abutting public or private road right-of-way is a street side lot line. A side lot line separating a lot from another lot is an interior side lot line.

**Lot of Record:** A lot which is part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds in Otsego County, or lot described by metes and bounds, the deed of which has been recorded in the Office of the Register of Deeds in Otsego County.

**Lot, Width of:** The width measured along the front lot line or street line.

**Lot, Through:** A lot other than a corner lot, having frontage on more than one (1) street.

**Major Thoroughfare:** A public street, the principal use or function of which is to provide an arterial route for through traffic, which its secondary use or function is the provision of access to

abutting properties, and which has been classified as such by the Michigan Department of Transportation.

**Minor Street:** A public way, the principal use or function of which is to give access to abutting properties

**Mobile Home:** A factory-built, single-family structure that is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, which does not have wheels or axles permanently attached to its body or frame, and which is constructed according to the National Mobile Home Construction and Safety Standards Act of 1974. House trailers shall be considered mobile homes. This definition does not include travel trailers, motor homes, or recreational type vehicles used for temporary seasonal travel.

**Mobile Home Park:** A parcel of land which has been planned and improved for the placement of three (3) or more mobile homes for residential dwelling use, and is licensed and regulated by the State of Michigan.

**Motel:** A building or group of building, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" shall include buildings designated at "auto courts", "tourist courts", "motor courts", "motor hotel", and similar words which are designed as integrated units of individual rooms under common ownership.

**Nonconforming Use:** A building, structure, or use of land lawfully existing at the time of enactment of this Ordinance, and which does not conform to the regulations of the district or zone in which it is situated.

**Open Space:** Any unoccupied space open to the sky on the same lot with a building.

**Person:** An individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

**Plan, Master:** An adopted statement of policy by the Village relative to the agreed upon desirable physical pattern of future community development, consisting of a series of maps, charts, and written material that represents a sound conception of how the community should grow in order to bring about the very best community living conditions.

**Planned Unit Development:** A land area which has both individual building sites and common property, such as a park, and which is designed and developed under one (1) owner or organized group as a separate neighborhood or community unit.

**Principal Use:** The main use to which the premises are devoted and the principal purpose for which the premises exists.

**Public Utility:** Any person, firm, corporation, municipal department, or board fully authorized to furnish to the public electricity, gas, steam, telephone, telegraph, transportation, or water.

**Recreation, Private:** A recreational space or structure, or combination thereof, belonging to and/or operated by private interests for use by private individuals and/or organizations and/or

the public, consisting primarily of man-made structures and/or artificial apparatus which are necessary to or form the basis for said use.

**Recreation, Public:** Any recreational space or structure owned by the public or any space and structure, or combination thereof, privately owned, and publicly used consisting primarily of the utilization of natural physical features as the basis for said use. Structures and artificial apparatus are secondary to the primary outdoor use.

**Right-of-Way:** A street, alley, or other thoroughfare, or easement permanently established for passage of persons, vehicles, or the location of utilities.

**Rooming House:** A building where lodging only is provided for compensation.

**Setback:** The minimum horizontal distance from an applicable lot line within which no building or structure can be placed, except as otherwise provided in this Ordinance.

**Setback, Front:** The required setback measured from the front lot line.

**Setback, Rear:** The required setback measured from the rear lot line.

**Setback, Side:** The required setback measured from a side lot line.

**Sign:** A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of and for the benefit of any product, place, activity, individual, firm, corporation, institution, profession, association, business or organization.

**Sign, Freestanding or Ground:** A sign supported by permanent uprights or braces in the ground.

**Sign, Identification:** An on-premise sign whose copy is limited to the name and address of a building, institution, person and/or the activity or occupation being identified.

**Sign, Off premises:** Any sign relating to subject matter not conducted on the premises on which the sign is located.

**Sign, On premises:** Any sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises.

**Sign, Outdoor Business or Informational:** A freestanding, overhanging or wall mounted sign located outside a structure on which is displayed information pertaining to a product, use, occupancy, function, service or activity located within that structure, on the same property as the sign, or at a location different than the property on which the sign is located.

**Sign, Overhanging:** A sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.

**Sign, Portable:** A sign that is designed to be transported, including but not limited to signs:  
With wheels removed;  
With chassis or support constructed without wheels;

Designed to be transported by trailer or wheels;  
Converted A- or T- frame signs;  
Attached temporarily to the ground, a structure, or another sign;  
Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the business for which the vehicle is being used in normal day-to-day operations of that business.

**Sign Surface:** That portion of a sign excluding its base, foundation and erection supports on which information pertaining to a product, use, occupancy, function, service, or activity is displayed.

**Sign, Wall:** Any sign attached parallel to or painted on the exterior surface of a building or structure wall in such a manner that the sign does not extend beyond the surface of the wall to which it is attached.

**Sign, Window:** Any sign, picture, symbol, or combination thereof, designed to communicate information about any activity, business, commodity, event, sale, or service that is placed on a window pane or glass so that it is visible from the out-of-doors.

**Site Condominium Project:** A plan or project consisting of two (2) or more single family dwelling units established in conformance with the Michigan Condominium Act, P.A. 59 or 1978, as amended.

**Site, Net Area:** The total area within the property lines of a project or development, excluding streets.

**Story:** That portion of a building included between the surface of any floor and the surface of the next floor above it, of if there is not a floor above it, then the space between the floor and the ceiling next above it.

**Story, Half:** A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half story containing independent apartments or living quarters shall be counted as a full story.

**Story, Height of:** The vertical distance from the top surface of one floor to the top surface of the next above. The height of the top-most story is the distance from the top surface of the floor to the top surface of the ceiling joints.

**Street:** A public thoroughfare which affords the principal means of access to abutting properties.

**Street Line:** The legal line of demarcation between a street and abutting land.

**Structure:** Anything constructed, erected, or assembled, the use of which requires location on the ground, or attachment to something having location on the ground. Paved or concrete driveways, sidewalks, patios, and the like are excluded from this definition.

**Use:** The purpose for which land or a building is arranged, designed, or intended, or for which land or a building may be occupied.

**Yard:** The space between a principal building, excluding steps and unenclosed porches, and a lot line.

**Yard, Front:** The yard between the principal building and the front lot line extending across the entire width of the lot.

**Yard, Rear:** The yard between the principal building and the rear lot line extending across the entire width of the lot.

**Yard, Side:** The yard between the principal building and a side lot line extending between the front yard and the rear yard.

**Zoning Administrator:** Appointed officer of the Village Council to effect proper administration of this Ordinance.

**Zoning Board of Appeals:** The Village of Vanderbilt Zoning Board of Appeals.

**Zoning Permit:** Permit required for any change in use of land or structure in accordance with the provisions of this Ordinance.

## **ARTICLE IX: USES SUBJECT TO SPECIAL USE PERMIT REQUIREMENTS**

### **Section 9.1 Intent and Purpose**

Special use permits are required for proposed activities, which are essentially compatible with other permitted uses in a zoning district, but which possess characteristics or locational qualities, which require individual review. The purpose of this individual review is to ensure compatibility with the character of the surrounding area, with public services and facilities, with adjacent properties, and to ensure conformance with standards set forth in this Ordinance. Uses allowed by special use permit are listed in this Ordinance under each zoning district.

### **Section 9.2 Special Use Permit Procedures**

1. An application for a special use permit shall be submitted in triplicate through the office of the Zoning Administrator to the Planning Commission, and shall include the following:
  - a. A site plan, prepared according to Article X.
  - b. A description of the proposed use, including parking spaces as required by Article XII, if required, and any exceptional traffic situation the use may occasion.
  - c. Sewage and waste disposal facilities and water supply, existing and/or proposed for installation.
  - d. A statement by applicant appraising the effect on the neighborhood.
  - e. An application fee, established by the Village Council, shall accompany the application.
2. Once the Zoning Administrator has determined that the special use permit application is complete, he/she shall file his/her recommendation of the proposed development with the Planning Commission, which shall consider the special use permit request after notice has been given as follows. The notice shall be given not less than fifteen (15) days before the date the application will be considered. Notice shall be published in a newspaper which circulates in the Village and sent by mail or personal delivery to the property owners for which approval is being considered, to all persons to whom real property is assessed within three-hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three-hundred (300) feet of the property regardless of whether the property or occupant is located in the Village. If the name of the occupant is not known, the term "occupant" may be used.

The notice shall describe the nature of the special use permit request; indicate the property which is subject of the special use permit request; state when and where written comments will be received concerning the request; state the time, date and place where the special use permit will be considered; and indicate that a public hearing on the proposed special use permit will be held.

3. After the public hearing and review, the Planning Commission shall:
  - a. Approve the special use permit application and required site plan. The Zoning Administrator shall then be directed to issue the special use permit, or;
  - b. Approve the special use permit application and required site plan subject to conditions, which are imposed in order to insure the special use permit complies with standards stated in this Ordinance. The Zoning Administrator shall then be directed to issue the special use permit, or;
  - c. Disapprove the special use permit application and required site plan.
4. If the Zoning Administrator finds that the conditions and stipulations of a special use permit are not being adhered to, the Planning Commission shall give notice to the property owner

of its intent to revoke the approved special use permit by personal service or registered letter sent to the property owner. The notice shall be signed by the Planning Commission chair, shall contain the grounds for the revocation, shall state the time, date and place where the Planning Commission will consider revocation of the special use permit, and shall be delivered to the property owner not less than thirty (30) days prior to the stated date of the hearing concerning revocation.

If the property owner notifies the Planning Commission within fifteen (15) days of the receipt of the above letter of his/her intent to rectify the violation, the Planning Commission may defer the revocation.

5. A disapproval of the special use permit application and accompanying site plan by the Planning Commission may be appealed by the property owner or designated agent to the Board of Appeals only to determine if correct procedures were followed as noted in Section 4.7. Request for appeal may be made by written letter from the applicant to the Board of Appeals within thirty (30) days of disapproval or revocation of special use permit and accompanying site plan by the Planning Commission.

### **Section 9.3 Special Use Permit Standards for Review**

Applications for special use permits shall be referred to the Planning Commission for review and approval, disapproval, or approval with modifications or conditions. The special use permit request and the required site plan shall be subject to the following special requirements, in addition to the requirements and standards of the zoning district where located, in order to prevent conflict with or impairment of the principal permitted uses of the zoning district.

1. The proposed development shall meet all design standards of this Ordinance and other applicable local or state codes, regulations, ordinances, and administrative rules.
2. The density or use characteristics of the proposed development shall not be detrimental to adjacent properties and land uses.
3. The proposed development shall not result in a need for additional Village services and facilities.
4. The traffic characteristics of the proposed development shall not result in a need for additional Village streets and/or sidewalks.
5. The character of the proposed development shall be in keeping with the existing or planned uses of the area.

### **Section 9.4 Supplemental Site Development Requirements**

The various land uses and activities requiring special consideration and more intense review are listed below. The standards specified under each type of use are meant to be utilized by the Planning Commission as general guidelines for determining whether or not the proposed use is acceptable.

#### **1. Communications Towers**

Antenna towers and masts for personal or business communications services may be authorized with a special use permit by the Planning Commission in the Agriculture District. Antenna towers and masts erected and operated as a residential accessory use, and not more than fifty (50) feet in height as measured between the tower's base at grade and its highest point are exempt from these regulations. A site plan prepared and sealed by a professional engineer and other materials normally required for special use permits must be

submitted with the application. In considering authorization of such towers and masts, the Planning Commission shall apply the standards of Article X (Site Plan Review) and Article IX (Uses Subject to Special Use Permit Requirements), and the following specific standards:

- a. The applicant shall provide documentation to the Planning Commission that clearly establishes the legal ownership of the tower. The applicant, agents, or successors shall report to the Planning Commission any changes in the legal ownership of the tower within thirty (30) days of the effective date of the change.
- b. A communications tower shall be exempt from building height limits established by zoning district regulations, provided that the tower height shall not exceed the minimum height necessary to serve its intended functions or one hundred ninety-nine (199) feet, whichever is less.
- c. The applicant shall provide documentation of whether or not it is feasible to provide equivalent service by co-locating the antenna on an existing tower or alternative tower structure in the Village, or on an existing tower or other existing alternative tower structure located in neighboring communities.
- d. The tower and any ancillary building or buildings housing equipment needed for operation of the tower shall not exceed the floor area and height minimally necessary for such equipment, and shall be of a size, type, color, and exterior materials which are aesthetically and architecturally compatible with the surrounding area. Landscape screening may be required by the Planning Commission to accomplish screening of ancillary equipment buildings.
- e. Guy cables and anchors shall comply with applicable zoning district setback requirements.
- f. The applicant shall provide documentation of any lighting to be installed on the site. If tower lighting is required or proposed, the tower may not be approved unless the Planning Commission determines that it will not have a significant adverse impact on properties and residents of the surrounding area.
- g. Towers shall not be artificially lighted, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the lighting alternatives and design must cause the least disturbance to the surrounding views.
- h. Towers in alternate bands of orange and white shall be permitted only if specifically required by Federal Communications Commission (FCC) or Federal Aviation Administration (FAA) regulations. If alternate band painting is required by FCC or FAA regulations, the applicant shall provide documentation of such requirements and regulations. The antenna and/or array installed on a tower structure and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the tower structure, so as to make the antenna and related equipment as visually unobtrusive as possible.
- i. No signs other than signs required pursuant to federal, state or local law and ordinance shall be allowed on an antenna or tower or site.
- j. The applicant shall provide documentation of conformance with any Federal Communications Commission and Federal Aviation Administration regulations.
- k. The owner/operator of the tower shall agree to permit use of the tower by other personal or business communications services providers, including local government agencies, on reasonable terms, so long as such use does not interfere with the owner/operator's reasonable use of the tower. The addition of other user's equipment to the tower shall be permitted so long as the engineered design capacity of the tower or mast is not exceeded.
- l. As a condition of approval, prior to construction, the Planning Commission may require an owner to deposit funds in escrow with the Township, or provide an insurance bond

satisfactory to the Village's Attorney to assure the removal of towers and masts as prescribed in this section. If required, such escrow deposit or insurance bond shall be in an amount equal to one and one-quarter (1.25) times the estimated cost of removal of the tower at the time of approval. Such escrow deposit or bond shall be maintained by successor owners.

- m. If the tower ceases operation for its original use or is abandoned for any reason, the Village may order its removal from the site by the owner of the tower within three (3) months of notification by the Village.
- n. If the height required for the tower to serve its intended function decreases from such height as installed due to technological advancement, additional tower installations at other locations, or other factors, the Village may order that the tower be lowered to such decreased minimum height.
- o. The tower shall be set back not less than one (1) times the height of the tower measured from the base of tower to all points on each property line. The tower and any supporting or appurtenant structures shall be no closer to any dwelling than the distance equal one and one half (1.5) times the height of the tower measured from its base at grade to its highest point. A fence not less than six (6) feet in height, plus anti-climb features in addition to the six (6) feet, shall be constructed around the base of the tower.
- p. Any sound produced by auxiliary equipment or generator shall not exceed 60 decibels measured at the property line.

## **2. Home Occupations**

While the Village of Vanderbilt recognizes that many residents feel the necessity to work at home, the Village also recognizes the rights of all residents to be free from actual or potential nuisance, which may be caused by non-residential activities conducted in a residential zone. The intent of this section is to ensure that any home occupation is compatible with other permitted uses in residential districts and to maintain and preserve the residential character of the neighborhood.

- a. The home occupation shall be clearly incidental and subordinate to the principal use of the premises for residential purposes. The exterior appearance of the structure shall not be altered or the occupation within the residence be conducted in a manner which would substantially alter the premises' residential character.
- b. Except as otherwise provided herein, the home occupation shall be conducted by the persons occupying the dwelling. Two (2) non-resident persons may be employed. Not more than twenty five percent (25%) of the dwelling's total floor area may be used for the home occupation.
- c. Accessory buildings, whether attached or detached, existing at the time of application to operate the home occupation, may be used in the home occupation. There shall be no limit on the amount of accessory building floor space used by the home occupation. No new accessory buildings may be constructed for the purpose of operating a home occupation.
- d. Hours of operation shall not be prior to 6:00 AM or later than 9:00 PM.
- e. The exterior of the dwelling shall not evidence the existence of the home occupation, except for one (1) non-illuminated sign meeting the requirements of Article XIII.
- f. No occupation shall be conducted upon or from the premises, which would constitute a nuisance or annoyance to adjoining residents by reason of noise, dust, glare, heat, smoke, fumes, odor, vibrations, or electrical disturbance. There shall be no discharge of polluting materials, fluids, or gases into the ground or surface water, soil, or atmosphere.
- g. Vehicular and pedestrian traffic generated by the home occupation shall not exceed that which would normally be expected in a residential neighborhood, and all parking shall be provided off the street.

- h. The home occupation shall not use, park, or store on the property any heavy commercial vehicle which has one or more of the following characteristics: (1) either a gross vehicle weight rating or actual gross weight or gross combination weight rating or an actual gross combination weight of ten thousand one (10,001) or more pounds; (2) is designed for carrying sixteen (16) or more passengers, including the driver; or (3) is used in the transportation of hazardous materials in a quantity that requires the vehicle to be marked or placarded.

### **3. Planned Residential Developments**

All planned residential development projects, whether developed as a platted subdivision or a site condominium project shall be reviewed and approved by the Planning Commission once the Zoning Administrator had determined that the application package is complete. In determining whether to approve a planned residential development, the Planning Commission may consult with the Village Attorney, Village Engineer or Village Planner regarding the adequacy of the master deed, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with other state, county or local requirements.

#### **a. General Requirements:**

- i. Lots: For the purpose of this section, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district where located. In the case of a site condominium containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use.
- ii. Revision of Planned Residential Development Plan: If the preliminary site plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any building permit may be issued.
- iii. Amendment of Master Deed or Bylaws: Any amendment to the master deed or bylaws that affects the approved preliminary or final site plan or any conditions of approval of a preliminary or final site plan shall be reviewed and approved by the Planning Commission before any building permit may be issued. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the approved site plan.
- iv. Development Agreement: The Planning Commission may require, as a condition of approval, that the applicant enter into a development agreement with the Village, incorporating therein the terms and conditions of final site plan approval, and record the same with the County Register of Deeds.
- v. Relocation of Boundaries: Relocation of boundaries between adjoining condominium lots, if permitted in the condominium documents, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the bylaws and recorded as part of the master deed.
- vi. Subdivision of Lots: Each lot that results from a subdivision of another lot shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator.
- vii. Private Streets: The following residential street standards should be adhered to, unless the Planning Commission permits modification. These standards are

commensurate with traffic flow and safety standards for various densities. All lots in a planned residential development shall abut public or private streets.

Type of Street	Uses Served	Require Right-of-Way (Feet)*	Width of Pavement*
Residential dead end or local street	1-6 dwellings	40	24
	7-20 dwellings	40	24
	21-50 dwellings	50	30
Residential collector	51-200 dwellings	66	36
Neighborhood collector	More than 200 dwellings or any commercial use	66	36

\*Or as required by the Otsego County Road Commission, whichever is more restrictive.

- viii. Road Rights-of-Way: Road rights-of-way shall be parcels separate from individual lots, and shall be accurately delineated by bearings and distances on the site plan. The right-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing public utilities.
  - ix. Monuments: Monuments shall be set at all boundary corners and deflection points and at all roads right-of-way intersection corners and deflection points. Lot irons shall be set at all individual lot corners.
  - x. As-Built Drawings: A dimensionally stable copy of the as-built drawings shall be submitted to the Village and a second dimensionally stable copy shall be recorded with the County Register of Deeds.
- b. Planned Residential Development Site Plan Requirements:
- i. The name, address and telephone number of: all persons, firms or corporation with an ownership interest in the land on which the project will be located together with a description of the nature of each entity's interest; all engineers, attorneys, planners, architects or registered land surveyors associated with the project; and the developer or proprietor of project.
  - ii. The legal description of the land on which the project will be developed together with appropriate tax identification numbers.
  - iii. The acreage content of the land on which the project will be developed.
  - iv. The purpose of the project.
  - v. Number of single family residential units or site condominium units to be developed.
  - vi. A survey plan of the project.
  - vii. The site plan shall show the size, location, area, vertical boundaries and volume of each unit comprised of enclosed air space. A number shall be assigned to each residential lot or condominium unit. The site plan shall include the nature, location and approximate size of common elements and limited common elements.
  - viii. A utility plan showing all electricity, natural gas, sanitary sewage disposal and water systems, lines and facilities.
  - ix. A street construction, paving and maintenance plan for all private streets within the proposed project.
  - x. A storm drainage and storm water management plan, including all lines, drains, basins and other facilities.



## **ARTICLE X: SITE PLAN REVIEW**

### **Section 10.1 Uses Requiring a Site Plan**

Site plans give the Planning Commission or Zoning Administrator an opportunity to review development proposals in a concise, consistent manner. The use of a site plan insures that physical changes in the property meet with local approval and that building actually occurs as it was proposed by the developer. Therefore, site plans are required for the following uses:

1. All new uses, both permitted by right and special use permit, except single-family and two-family residential units. For single-family and two-family residential dwelling, the requirements of Section 3.3 shall be followed.
2. Expansion or renovation of an existing use, other than a single-family and two-family residential use, which increases the existing floor space more than twenty-five percent (25%) or four hundred (400) square feet, whichever is less.
3. Change of use for an existing structure, except for single-family and two-family residential uses. Where change of use of an existing structure requires no further construction or expansion and where the use does not require special use permit, the site plan may be considered minor and may be reviewed by the Zoning Administrator.

### **Section 10.2 Site Plan Data Required**

Each site plan submitted shall contain the following information, unless specifically waived for good cause in whole or in part by the Planning Commission or Zoning Administrator.

1. The name and address of the property owner.
2. The date, north arrow, scale and name of individual or firm responsible for preparing the plan. The scale must be not less than one (1) inch = forty (40) feet for parcels less than three (3) acres and not less than one (1) inch = one hundred (100) feet for parcels three (3) acres or more.
3. The boundary lines, dimensions and legal description of the property.
4. The location of all existing and proposed structures on the site, including proposed drives, walkways, signs, exterior lighting, parking and loading/unloading areas as required by Article XII, common use areas and recreational areas and facilities.
5. The locations and widths of all abutting rights-of-way.
6. Topographic contours at intervals not to exceed two (2) feet or spot elevations sufficient to determine the elevation and general slope of the property.
7. The location of unusual environmental features, such as woodlots, streams, wetlands, shorelines, etc.
8. The location and identification of all existing structures within a two hundred (200) foot radius of the subject property boundaries.
9. The existing zoning district in which the site is located, and the zoning of adjacent parcels.
10. The location of all existing and proposed landscaping as well as all existing and proposed fences, walls and/or berming, as required by Article XI.
11. A location sketch of the proposed use or structure.
12. Elevation drawings of the front, rear and sides of each building.
13. Floor plans of each building.
14. The type, location and size of all utilities existing and proposed for the site.
15. The location, size and slope of all subsurface drainage facilities.

### **Section 10.3 Site Plan Submittal and Approval Procedures**

1. Seven (7) copies of the site plan and all related information pertinent to the special use permit approval (if applicable) shall be presented to the Zoning Administrator by the applicant. The Zoning Administrator shall review the submittal for completeness, and shall return incomplete submittals to the applicant, with notation of what required content items

are missing. When the submittal is complete, the Zoning Administrator shall place it on the agenda of the next regular Planning Commission meeting. The Zoning Administrator may review and approve a site plan for change of use of an existing structure, where no further construction or expansion will occur and where the use does not require a special use permit.

2. The Planning Commission shall have the responsibility and authority to approve, disapprove or approve with modifications and/or conditions, the site plan if it complies with the requirements of the zoning district in which the proposed use is located and the standards noted in Section 10.4 and the standards of special use permit approval, if applicable. For site plans reviewed by the Zoning Administrator, he or she shall have the responsibility and authority to approve, disapprove or approve with modifications and/or conditions, the site plan if it complies with the requirements of the zoning district in which the proposed use is located. Whether reviewed by the Planning Commission or Zoning Administrator, all decisions concerning site plans shall be based on written findings of fact on each of the required approval standards.
3. When approved, at least two (2) copies of the final approved site plan shall be signed and dated by the Chair of the Planning Commission or the Zoning Administrator, as the case may be. One (1) copy shall be kept on file by the Village Clerk or designee, and the other approved copy shall be returned to the applicant or designated representative.

#### **Section 10.4 Site Plan Review and Approval Standards**

In reviewing a site plan, the Planning Commission and Zoning Administrator shall further consider the following criteria:

1. The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic.
2. The traffic circulation features within the site and location of automobile parking areas; and may make requirements with respect to any matters that will assure:
  - a. Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets.
  - b. Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
3. Whether the sewage disposal facilities, water supply, storm water drainage, fire protection, and other utility provisions will be safe and adequate.
4. Whether the location, use, and the nature of the operation will be in conflict with the primary permitted uses of the district or neighborhood.
5. Whether the use will be objectionable to adjacent and nearby properties by reason of traffic, noise, vibration, dust, fumes, odor, fire-hazard, glare, flashing lights, disposal of waste or sewage, erosion, pollution, or negative effects upon significant environmental features.
6. Whether the use will discourage or hinder the appropriate development and use of adjacent premises and neighborhood.
7. That the site plan complies with requirements of this Ordinance pertaining to parking, signs, landscaping, screening, buffering, fencing, and accessory buildings

#### **Section 10.5 Amendment of Approved Site Plan**

The Zoning Administrator may approve minor amendments to a site plan initially approved by the Planning Commission where the amendments do not directly relate to standards for approval and may approve all amendments to a site plan initially approved by the Zoning Administrator. Any other amendments to an approved site plan shall be approved by the Planning Commission following the procedures for initial approval pursuant to Section 10.3 above. Any amendment to a site plan approved by the Planning Commission or the Zoning

Administrator shall be so stated in writing to the applicant and shall be recorded in the minutes of the appropriate Planning Commission meeting, if applicable.

#### **Section 10.6 Performance Guarantee**

To insure compliance with the provisions of this Article and any conditions imposed thereunder, a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Village covering the estimated cost of improvements associated with a project for which site plan approval is sought, may be required by the Planning Commission for deposit with the Village Treasurer to insure faithful completion of the improvements. If required, the performance guarantee shall be deposited at the time of site plan approval. Deposit of the performance guarantee is not required prior to site plan approval. The Village shall return any unused portion of the deposit to the applicant in reasonable proportions to the ratio of work completed on the required improvements as work progresses.

#### **Section 10.7 Revocation of Site Plan**

1. If the Zoning Administrator finds that the conditions and stipulations of an approved site plan are not being adhered to, the Planning Commission shall give notice to the property owner of its intent to revoke the approved site plan by personal service or registered letter sent to the property owner. The notice shall be signed by the Planning Commission chair, shall contain the grounds for the revocation, shall state the time, date and place where the Planning Commission will consider revocation of the site plan, and shall be delivered to the property owner not less than thirty (30) days prior to the stated date of the hearing concerning revocation.
2. If the property owner notifies the Planning Commission within fifteen (15) days of the receipt of the above letter of his/her intent to rectify the violation, the Planning Commission may defer the revocation.

#### **Section 10.8 Site Plan Revocation Appeal**

The decision of the Planning Commission to revoke an approved site plan may be appealed by the aggrieved party, the property owner, or his or her designated agent to the Zoning Board of Appeals. The request must be made within thirty (30) days of the notice to the owner of such revocation action by the Planning Commission.

#### **Section 10.9 Site Plan Expiration**

Site plan approval shall expire if the substantial construction for the authorized development is not commenced within twelve (12) months of site plan approval. For the work to proceed following the expiration of a site plan, the applicant shall resubmit the site plan following the requirements of Section 10.3. If work is not completed within twenty-four (24) months after approval of the site plan, the applicant may request not more than two (2) additional twelve (12) month extensions. In situations when a site plan is resubmitted or extensions requested, the applicant shall provide a performance guarantee under the provisions of Section 10.5.

## **ARTICLE XI: LANDSCAPING, SCREENING, BUFFERING, AND FENCING**

### **Section 11.1 Intent**

It is the intent of this Article to require buffer zones and landscape screening to reduce the negative impacts between incompatible land uses, minimize visual impacts of development, and provide for landscaping within parking lots. In addition, it is intended to preserve and enhance the aesthetic qualities, character, privacy and land use values within the community.

### **Section 11.2 Application**

These requirements shall apply to all uses for which site plan review is required. No site plan shall be approved unless that site plan includes landscaping, buffers and screening consistent with the requirements set forth in this article. Screening is the enclosure of an area by a visual barrier, which may include a landscape buffer, solid fencing or other materials. Fencing is the enclosure of an area as specified in Section 11.8. Street landscape buffer regulations are specified in Section 11.6.

### **Section 11.3 Landscape Plan Required**

A detailed landscape plan shall be required as part of a site plan review (See Article X). The landscape plan shall include, but not necessarily be limited to, the following items:

1. Location, spacing, size, and root type [bare root (BR) or balled and burlaped (BB)] and descriptions for each plant type proposed for use within the required landscape area.
2. Minimum scale shall be not less than one (1) inch = forty (40) feet for parcels less than three (3) acres, and one (1) inch = one hundred (100) feet for parcels larger than three (3) acres.
3. Existing and proposed contours at intervals not to exceed two (2) feet, or spot elevations at sufficient intervals to indicate existing and proposed grading.
4. For proposed berms, straight cross-section including slope, height, width and type of groundcover. For walls or fences, height and type of construction including footings.
5. Significant construction details to illustrate specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
6. Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
7. Identification of existing trees and vegetative cover to be preserved.
8. Identification of grass and other groundcover and method of planting.
9. Description of landscape maintenance program.

### **Section 11.4 Screening between Land Uses**

1. Upon any improvement for which a site plan is required, screening shall be constructed not less than six (6) feet in height along all boundaries adjoining with residentially zoned or used property. Either a landscape buffer, wall or fence may be required, at the discretion of the Planning Commission. A landscape buffer may consist of earthen berms and/or living plant materials, which will create an effective year-round visual screen within three (3) years of establishment.
2. Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall may be required. The wall shall be six (6) feet or more in height as measured on the side of the proposed wall having the higher grade, and shall be constructed of solid masonry materials approved by the Planning Commission.

### **Section 11.5 Parking Lot Landscaping**

Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one (1) tree for every eight (8) parking spaces. A minimum distance of three (3)

feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement.

1. Individual landscaped areas shall be a minimum of ten (10) feet wide and one hundred fifty (150) square feet in area.
2. Individual landscaped areas shall be wider than ten (10) feet where necessary to accommodate snow removal without plant damage.
3. Parking lot landscaping shall be designed to provide directional guidance to drives, including ingress, egress, and interior circulation.

#### **Section 11.6 Street Landscape Buffers**

1. A street landscape buffer with a minimum width determined by the front yard setback of the zoning district in which located shall be located between the building and the abutting right-of-way of a public street or roadway, and shall be landscaped with a minimum of one (1) tree not less than twelve (12) feet in height or a minimum caliper of two and one-half (2½) inches for each thirty (30) lineal feet of frontage abutting said right-of-way. The remainder of the street landscape buffer shall be landscaped in grass, groundcover, shrubs, and/or other natural, living, landscape material.
2. Access ways from public rights-of-way through required street landscape buffers shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.

#### **Section 11.7 Site Landscaping**

1. In addition to any street landscape buffer and/or parking lot landscaping required by this article, at least ten (10) percent of the site area shall be landscaped.
2. Areas used for storm drainage purposes, such as drainage courses or retention areas, shall not be included as a portion of the required landscaped area.

#### **Section 11.8 Fencing and Screening**

Unless otherwise specified or determined by the Planning Commission, fencing and screening shall be not less than six (6) feet in height. Gateposts and other superstructures over site entrances and exits shall be no less than twelve (12') feet in height and no more than twenty (20') feet in height.

1. Mechanical Equipment (This subsection does not apply to single-family residential uses, or to any use in an industrial land use category except if it is directly adjacent to a residential use or district). When located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents, or chimneys, are to be screened to the height of the particular piece of equipment, as follows:
2. Roof-Mounted Equipment: To be screened by architectural features from the view of abutting streets and parcels.
3. Equipment at Grade: When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.
4. Outdoor Storage, Including Dumpsters and Trash Receptacles: to be screened on all sides by a solid wall or opaque fencing.
5. Public Utility Substations: To be screened on all sides by a solid wall or fencing, and landscaping.
6. Side and Rear Lot Lines: The side and rear property lines of all nonresidential uses are to be screened as follows:
  - a. Adjacent to a Residential Use or Zone: To be screened on all sides by a solid wall or fencing, and landscaping.

- b. Industrial and Commercial Zones: A solid wall or fencing is to be located on the side and rear property lines of any site within an Industrial or Commercial zone that abuts another zoning district or land use.

**Section 11.9 Barrier Fences**

Barrier fences containing barbed wire, electric charges or sharp materials at the top of a fence or wall less than six (6) feet in height are prohibited unless needed to protect the public safety and approved by the Planning Commission.

**Section 11.10 General Landscape Development Standards**

1. Minimum Plant Material Standards:

- a. All plant material shall be hardy to Otsego County, free of disease and insects and conform to the standards of the American Association of Nurserymen. A list of recommended plants is available from the Zoning Administrator. All plants shall be maintained and any dead vegetation shall be replaced.
- b. All plant materials shall be installed in such a manner so as not to alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.
- c. All plant material shall be planted in a manner so as not to cause damage to utility lines (above and below ground) and public roadways.
- d. Minimum plant sizes at time of installation:

Deciduous Canopy Trees	2 ½" caliper
Deciduous Ornamental Trees:	2" caliper
Evergreen Tree:	6' height
Deciduous Shrub:	2' height
Upright Evergreen Shrub:	2' height
Spreading Evergreen Shrub:	18" – 24" spread

- e. Existing plant material, which complies with the standards and intent of this Article, as determined by the Zoning Administrator, shall be credited toward meeting the landscape requirements.
- f. The plant material shall achieve its horizontal and vertical screening effect within three (3) years of initial installation.
- g. The overall landscape plan shall not contain more than thirty-three (33) percent of any one plant species.
- h. All plant materials shall be maintained in a healthy condition and any dead landscaping shall be replaced within six (6) months or as weather permits.

2. Minimum Standard for Berms:

- a. Berms shall be constructed so as to maintain a side slope not to exceed a one (1') foot rise to a three feet (3') run ratio.
- b. Berm areas not containing planting beds shall be covered with grass or living groundcover maintained in a healthy growing condition.
- c. Berms shall be constructed in such manner so as not to alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.

## **ARTICLE XII: OFF-STREET PARKING AND LOADING AND UNLOADING REQUIREMENTS**

### **Section 12.1 Off-Street Parking Requirements**

In all zoning districts, off-street parking requirements for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended after the effective date of this Ordinance, shall be provided as prescribed in this Article. Such space shall be maintained and shall not be encroached upon by buildings, structures, open air business or outdoor commercial recreation uses so long as the main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Article. An exception to this requirement may be made for lots located on Main Street between Elm Street and Lincoln Street where lots are small and on-street parking is available.

1. **Number of Spaces:**

When units or measurements determining number of required parking spaces result in a fractional parking space, any fraction up to and including one-half ( $1/2$ ) shall be disregarded, and fractions over one-half ( $1/2$ ) shall require one (1) additional parking space.

2. **Double Count:**

Off-street loading and unloading spaces as required in this section shall not be included in the required number of off-street parking spaces.

3. **Parking Locations:**

The off-street parking spaces required for residential dwellings shall be located behind the front setback line on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking strip, parking apron, and/or garage.

The off-street parking spaces required for nonresidential uses shall be located on the same lot as the building to be served or on other lots within five hundred (500) feet for uses within industrial districts and three hundred (300) feet for uses within all other zoning districts. Such distance shall be measured along lines of public access to the property between the nearest point of the parking space to the building to be served.

4. **General Condition:**

In the case of a use not specifically mentioned, the requirements for off-street parking spaces shall be the same as the off-street parking requirements for a similar use that is mentioned.

5. **Existing Parking Lots:**

Off-street parking existing on the effective date of this Ordinance which serves an existing building or use shall not be reduced in size less than that required under the terms of this article.

6. **Joint Use:**

Nothing in this article shall prevent two (2) or more buildings or uses from sharing off-street parking spaces. Any shared off-street parking spaces, however, shall not be less than sixty percent (60%) of the sum of the required off-street parking required for each building or use, as specified in the Table of Parking Requirements contained in Section 12.3. However, an area equal to remainder of the required off-street parking spaces shall be reserved in an undeveloped state until such later time that additional parking is needed.

7. **Off-Street Loading and Unloading:**

On the same premises with every use involving the receipt or distribution of materials or merchandise, adequate space for standing, loading and unloading shall be provided and maintained in order to avoid undue interference with public use of streets and roadways. Off-street loading and unloading spaces shall be a minimum of ten by fifty (10x50) feet with a

clearance height of a minimum of fourteen (14) feet. The number of spaces shall be provided in the following ratio of spaces to gross floor area.

Gross Floor Area (in square feet)	Number of Loading and Unloading Spaces Required
0 – 1,400	None
1,401 – 20,000	One (1) space
20,001 – 100,000	One (1) space, plus one (1) space for each 20,000 square feet in excess of 20,000 square feet
More than 100,000	Five (5) spaces

**Section 12.2 General Standards**

1. All off-street parking lots providing space for more than four (4) vehicles located in any zoning district shall comply with the following development regulations, except as specifically stated otherwise:
  - a. Plans for the development of any parking lot shall be submitted as part of the site plan, according to the requirements of Section 10.2 and must be approved by the Zoning Administrator or Planning Commission as required by Section 10.3 prior to the start of construction. The construction must also be in accordance with the requirements of the Village Engineer. In the event that owing to inclement or cold weather conditions the parking lot cannot be improved, a six (6) month temporary extension may be issued by the Zoning Administrator provided a cash deposit or bank letter of credit is deposited with the Village Treasurer equivalent to the cost of construction of the parking lot, as determined by the Zoning Administrator. If the parking lot is not fully completed within a six (6) month period following approval of the six (6) month extension, the deposit or bond shall be used to complete the parking lot or to restore the site to a usable form.
  - b. Adequate points or means of ingress and egress shall be provided and shown on the site plan submitted.
  - c. Parking lots shall be maintained in a usable dustproof condition, and shall be graded and drained to dispose of surface water in accordance and conformance with the requirements of the Village Engineer or Drain Commissioner. No surface water shall be allowed to drain onto adjoining private property.
  - d. Necessary curbs or other protection for the public and for the protection of adjoining properties, streets, and sidewalks shall be provided and maintained, as may be required upon site plan approval.
  - e. Entrance to parking lots shall be only from the principal use being served or adjoining street or alley right-of-way.
  - f. All illumination for or on parking lots shall be deflected away from residential areas and shall be installed in such a manner as to allow the reduction of the amount of light after normal parking hours each day.
  - g. Lot space requirements for the layout of the parking at various angles shall be in accordance with the following minimum regulations:

<b>Parking Angle</b>	<b>0° parallel parking</b>	<b>Up to 53°</b>	<b>54° to 74°</b>	<b>75° to 90°</b>
Maneuvering Aisle Width	12.0 ft.	13.0 ft.	18.0 ft.	24.0 ft.
Parking Stall Width	8.5 ft.	9.0 ft.	9.0 ft.	10.0 ft.
Parking Stall Length	24.0 ft.	21.0 ft.	22.0 ft.	20.0 ft.
Total Width of Two Stalls of Parking Plus Maneuvering Aisle	29.0 ft. (one way) 32.0 ft. (two way)	55.0 ft	62.0 ft.	44.0 ft.

- h. The minimum parking space dimension for any development not provided for in the preceding paragraph shall be:
- (1) 9.0 feet in width,
  - (2) 20.0 feet in length, and
  - (3) 180.0 square feet in area.

**Section 12.3 Table of Parking Requirements**

<b>Use</b>	<b>Required No. of Parking Spaces</b>	<b>Per Each Unit of Measure As Follows</b>
Animal hospital, kennel	1 1	Four hundred (400) sq.ft. of usable floor area, <u>plus</u> One (1) employee
Auditorium, theater, assembly hall, casino	1 1	Three (3) seats based on maximum seating capacity in the main place of assembly, <u>plus</u> One (1) employee on the largest working shift
Auto repair garage, bump shop, service garage	2 1 1	Service stall, <u>plus</u> Eight hundred (800) sq.ft. of usable floor area, <u>plus</u> One (1) employee
Auto salesroom, wholesale store, machinery sales, showroom of a plumber, electrical, or other similar trade	1 1	One thousand (1000) sq.ft. of usable floor area, <u>plus</u> One (1) employee
Bank and post office	1 1	Two hundred (200) sq.ft. of usable floor area, <u>plus</u> One (1) employee
Barber shop, beauty parlor	2	Operator chair
Bowling alley	6	Bowling lane
Business and professional office	1	Two hundred (200) sq.ft. of gross floor area
Carry-out restaurant	1	One hundred and twenty five (125) sq.ft. gross floor area with a minimum total of eight (8) parking spaces
Child care center, day care center, nursery school	1 1	Four hundred (400) sq.ft. of usable floor area, <u>plus</u> One (1) employee
Church	1	Three (3) seats
Dance hall, exhibition hall, pool hall, and assembly hall without seats	1	Two (2) persons allowed within the billiard parlors, and maximum occupancy load as established by fixed seats local, county or state fire, health, or building codes
Drive-in bank	4	Teller window
Drive-in establishment (other than drive-in and carry out restaurant)	1	One (1) employee
Elementary school, junior high school, trade school	1 1	Teacher, employee and administrator in addition to the requirements of the auditorium or assembly hall <u>plus</u> per classroom

Establishments (other than drive-in and carry out restaurant) for sale and consumption on the premises of beverages, food or refreshments (e.g. standard restaurant)	1	Seventy-five (75) sq.ft. of gross floor area
Fast food, drive-in restaurant	1	Thirty-five (35) sq.ft. of gross floor area
Filling station, automobile service station	2 1	Service stall, <u>plus</u> One (1) employee
Furniture and appliance, household equipment repair shop, hardware store, and similar stores	1 1	Eight hundred (800) sq.ft. of usable floor area, <u>plus</u> One (1) employee
Golf course open to the public	5 1	Hole, <u>plus</u> One (1) employee, <u>plus</u> the amount required for accessory uses
High school	1 1 1	Teacher, <u>plus</u> One (1) employee or administrator, <u>plus</u> requirements of the assembly hall or auditorium, <u>plus</u> Ten (10) students
Hospital	1 1 1 1	Two (2) beds, <u>plus</u> Staff doctor, <u>plus</u> One thousand (1,000) sq.ft. of patient surgery or treatment area, <u>plus</u> One (1) employee
Industrial establishment	1 1	One (1) employee on the largest shift or five hundred-fifty (550) sq.ft. of usable floor area (whichever is greater)
Laundromat, coin-operated dry cleaning establishment	1	Washing and/or dry cleaning machine
Library, museum	1	Five hundred (500) sq.ft. of gross floor area
Medical clinic, dental clinic	1	Two hundred (200) sq.ft. of gross floor area
Miniature or Par 3 golf course	2 1	Hole, <u>plus</u> One (1) employee
Mobile home site	2	Mobile home site
Mortuary establishment, funeral home, undertaking parlor	1	Fifty (50) sq.ft. of floor area in the parlor area
Motel, hotel, tourist home	1 1	Guest bedroom, <u>plus</u> One (1) employee, <u>plus</u> Parking space as may be required for accessory uses

Motor vehicle wash establishment (self-service)	4	Wash stall
Motor vehicle wash establishment (other than self-service)	4 1	Maximum capacity as computed by dividing the linear dimension of the mechanical wash/dry operation by twenty (20) feet, <u>plus</u> One (1) employee
Multiple-family dwelling	2	Dwelling unit
Open air business including mobile home sales and used car sales lot	1	Each eight hundred (800) sq.ft. of gross lot area used for open air sales or display, <u>plus</u> additional parking space for any structure utilized for retail sales computed in accordance with the requirements for retail sales (below)
Private club, fraternity, dormitory	1	Three (3) members or lodgers allowed within the maximum occupancy load as established by local, county or state fire, health or building codes
Private tennis club, swim club, or similar use	1	Two (2) club members, golf families or individual members, <u>plus</u> the amount required for accessory uses
Retail store except as otherwise provided herein	1 1	One hundred and fifty (150) sq.ft. of gross floor area, <u>plus</u> One (1) employee
Roadside stand	6	Establishment

## **ARTICLE XIII: SIGNS**

### **Section 13.1 Purpose and Intent**

The purpose and intent of this Article is to preserve the desirable character of the Village of Vanderbilt, as well as to recognize the need for and privilege of advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services afforded by the local business places. At the same time, the Village recognizes the right of residents to be free of advertising that could affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs shall be subject to all federal, state and local statutes and regulations and the regulations of this Ordinance. As a result, these regulations permit signs and other displays that are needed for the purposes of identification or advertising, subject to the following objectives:

1. By reason of their size, location, spacing, construction or manner of display, signs shall not endanger life or limb, confuse or mislead traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public health or safety.
2. Signs should enhance the aesthetic appeal of the Village. Thus, these regulations are intended to: 1) regulate oversized signs that are out-of-scale with the surrounding buildings and structures, and 2) prevent an excessive accumulation of signs which cause visual clutter and distraction.

### **Section 13.2 Signs Not Requiring a Sign Permit**

The following signs may be placed in any zoning district without a sign permit, provided such signs comply with any applicable federal or state law or regulation and are located so as not to cause a nuisance or safety hazard:

1. One (1) non-illuminated identification sign per use, not exceeding two (2) square feet of sign surface.
2. Street name signs, route markers and other traffic control signs erected or approved by state, county or village agencies when necessary to give proper directions or to otherwise safeguard the public.
3. Non-advertising signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards including but not limited to: road hazards, high voltage, fire danger, explosives, severe visibility, etc.
4. Non-advertising signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, hiking trail, day use only, and similar instructional messages), provided the sign surface does not exceed the maximum size limitations of Section 13.5 below.
5. Non-advertising signs marking a historically significant place, building or area when sanctioned by a national, state or local historic organization recognized by the planning commission, provided the sign surface does not exceed the maximum size limitations of Section 13.5 below.
6. Signs that have been approved in conjunction with a valid site plan or zoning permit for any principal or accessory use, and signs required by federal or state agencies in connection with federal or state grant programs.
7. Temporary real estate signs, not exceeding ten (10) square feet, on individual lots advertising a premise for sale or rent.
8. Signs advertising sales such as garage, estate, auction, moving, and yard sales, which last no more than seven (7) consecutive days, provided the sign surface does not exceed the maximum size limitations of Section 13.5 below.
9. Political and noncommercial signs, provided the sign surface does not exceed the maximum size limitations of Section 13.5 below.

**Section 13.3 Signs Requiring a Sign Permit**

Except as otherwise provided in Section 13.2 above, no sign shall be erected within any zoning district, until a sign permit is issued by the zoning administrator. Sign permit fees shall be established by the Village Council as provided in Section 3.6 of this Ordinance. Before issuing a sign permit, the zoning administrator shall determine that the proposed sign complies with all requirements of this Article.

**Section 13.4 Signs Authorized by Zoning District**

1. Unless otherwise prohibited in this Ordinance, an outdoor business or informational sign or temporary sign shall be permitted on property within the Local Business District (B-1), the Highway Business District (B-2), and the Industrial District (M-1) and on property in any zoning district on which a home occupation or other legal business is located, if and only if, all of the requirements of this Article are met.
2. Unless otherwise prohibited in this Ordinance, an off-premise sign shall be permitted on property within the Highway Business District (B-2), and the Industrial District (M-1).
3. Unless otherwise prohibited in this Ordinance, an outdoor business or informational sign, temporary sign or one (1) identification sign at each entrance to residential subdivisions or developments shall be permitted on property within the Single Family/Two Family Residential District (R-1), the Multiple Family District (R-2), the Agricultural District (A-1) and the Mobile Home Park District (MH).

**Section 13.5 Size Regulations**

1. The sign surfaces of all outdoor business or informational signs, off-premise signs, portable signs, and signs expressing noncommercial views shall not exceed the following size limitations:

<u>Zoning District</u>	<u>Maximum Size of Sign Surface</u>
R-1 and R-2	Ten (10) square feet
B-1, MH and A-1	Twenty-four (24) square feet
B-2 and M-1	Forty-eight (48) square feet

2. All identification signs located at the entrance to residential subdivisions and developments shall be no more than sixteen (16) square feet per sign.

**Section 13.6 Location Regulations**

The following regulations apply to all signs regardless of the zoning district in which they are located.

1. No off-premise sign shall be permitted in the R-1, R-2, A-1 MH, or B-1 zoning districts.
2. No freestanding sign shall exceed the maximum height of the zoning district in which located, as measured from the ground to the top of the sign.
3. Both sides of any freestanding or overhanging sign may be used as a sign surface.
4. Before erecting an overhanging sign above a public right-of-way, the owner of the sign shall receive the written approval of the proper governmental agency having jurisdiction over that right-of-way. An overhanging sign shall not project beyond the structure wall to which it is attached more than five (5) feet and shall be no less than fourteen (14) feet above the public right-of-way.
5. Freestanding signs may be permitted in a front yard, provided the sign is located no less than ten (10) feet from the front lot line.
6. In no case shall a wall sign or window sign exceed a total of ten (10%) percent of the area of the building wall to which it is attached.

7. No sign shall be placed at any location which obstructs the vision of drivers using a public or private street or alley or which obstructs the vision of drivers using any driveway, parking lot or other route providing ingress or egress to any premise.
8. A commercial use located in any zoning district shall not have more than two (2) off-premise signs related to that commercial use and such signs shall be permitted in the B-2 and M-1 zoning districts. Not more than one (1) off-premise sign shall be allowed in the B-2 and M-1 zoning districts per five hundred (500) feet of road frontage or one (1) off-premise or on-premise sign per lot, whichever allows more signs. Off-premise signs located on properties adjacent to Old M-27 (Mill Street) and I-75 shall be subject to the size limitations of the zoning district in which located and shall be placed only after the owner obtains a permit from the Michigan Department of Transportation (MDOT) under the Highway Advertising Act (Act 106 of the Public Acts of 1972), as amended.
9. No sign shall be located on the roof of any building or structure.
10. No sign shall be located in any street or road right-of-way or on Village property.

### **Section 13.7 Sign Lighting**

The following regulations apply to all signs regardless of the zoning district in which they are located.

1. Signs may be illuminated, provided the lighting is directed, shaded or designed so as not to interfere with vision of persons on adjacent highways, streets or properties and is not directed skyward so as to unnecessarily illuminate the night sky.
2. Except for time and temperature signs, signs containing flashing, intermittent or moving lights are prohibited.
3. For internally lighted signs, the sign background or field shall be opaque. Letters, numerals, logos and similar message elements may be of a transparent material to permit the internal lighting to reveal the message or information on the sign surface.

### **Section 13.8 Temporary Signs**

The following regulations apply to all temporary signs regardless of the zoning district in which they are located.

1. Portable signs shall be allowed for a maximum of thirty (30) days within any calendar year.
2. In the case of a special event, which occurs no more than once every six (6) months and lasts for a period not to exceed twenty-one (21) consecutive days, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics are permitted for a period of not more than seven (7) days prior to the special event and not more than one day (1) after the completion of the special event.
3. In the case of a special event lasting no more than seven (7) consecutive days that occurs periodically throughout the year, at the same times, and for the same duration, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics are permitted pursuant to an annual zoning permit for a period of not more than seventy-two (72) hours prior to the special event and not more than twelve (12) hours after the completion of the special event.
4. Signs advertising sales such as garage, estate, auction, moving, and yard sales, which last no more than seven (7) consecutive days, shall be permitted no more than forty-eight (48) hours prior to the sale, provided the signs are removed immediately after the sale.
5. Political signs shall be removed within five (5) days after the election to which they apply.

### **Section 13.9 Sign Maintenance**

A property owner may maintain or improve an existing conforming sign without a sign permit, provided the type, size, shape, height and use remains the same.

**Section 13.10 Nonconforming Signs**

Any sign lawfully in existence prior to the enactment of this Article which does not meet the requirements of this Article may continue in use as a nonconforming sign. The maintenance, reconstruction, alteration, discontinuation or change in a nonconforming sign shall be governed by Section 6.3 of this Ordinance.

**Section 13.11 Variances**

The Zoning Board of Appeals shall have the power to authorize, upon an appeal, specific variances from the requirements of this Article. The request for a variance from the requirements of this Article shall be governed by the rules and procedures relating to variances contained in Section 4.12 of this Ordinance.

## ARTICLE XIV: PLANNED UNIT DEVELOPMENTS

### Section 14.1 Intent and Purpose

As used in this section, "planned unit development" (or PUD) means cluster zoning, planned development, community unit plan, planned residential development, and other planned development. The purposes of a PUD are:

1. To accomplish the objectives of the Zoning Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.
2. To permit flexibility in the regulation of land development.
3. To encourage innovation in land use in variety and design, layout, and type of structures constructed.
4. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
5. To encourage useful open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Village.

### Section 14.2 Use and Area Regulations

1. *Permitted Uses.* Planned unit developments shall be permitted in any zoning district according to the following:
  - a. **All Residential Districts** - Except as noted, PUD uses shall be limited to the range of uses provided for within the underlying zoning district classification. Such uses may be placed either singularly or in combination. Institutional and commercial uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding neighborhood may also be permitted, provided the total area devoted to institutional and commercial uses shall not exceed twenty (20) percent of the PUD site area.
  - b. **Commercial District** - Except as noted, PUD uses may include any of the range of uses provided for within the underlying zoning district classification. Such uses may be placed either singularly or in combination. Residential uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding neighborhood may also be permitted provided the total area devoted to residential uses shall not exceed forty (40) percent of the PUD site area.
  - c. **Industrial District** - Except as noted, PUD uses shall be limited to the range of uses provided for within the underlying zoning district classification. Such uses may be placed either singularly or in combination. Commercial uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding area may also be permitted provided the total area devoted to commercial uses shall not exceed twenty (20) percent of the PUD site area.
  - d. In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed.
2. *Area Regulations.* Except to the extent that a PUD or a portion of a PUD is subject to area regulations mandated by a state agency, a PUD shall meet the following area regulations.
  - a. *Perimeter Setbacks.* The setback maintained along the perimeter of the PUD shall equal or exceed the required setback of the underlying zoning district, provided:
    - i. Any portion of a commercial or industrial use shall maintain a perimeter setback of not less than one hundred (100) feet from any adjoining or abutting property which is in a residential zoning district.
    - ii. With the exception of access drives, parking areas, lighting, sidewalks and curbing, the perimeter setback shall be landscaped.

- b. *Open Space.* A PUD project shall have open space of no less than twenty-five (25%) percent of the entire project area. This required open space shall be dedicated to the public or set aside for the common use of the owners and users within the PUD. Dedicated open space does not include parking lots, roads, and public rights-of-way, but may include flood plain areas and wetlands up to a maximum of twenty-five (25%) percent of the required open space and landscape area devoted to perimeter setbacks.
- c. *Height Regulations.* The height of all buildings and structures within a PUD project shall not exceed the height limit of the underlying zoning district; provided, however, the Planning Commission may authorize an increase in height upon a finding that the proposed increase will not be detrimental to the public health, safety, or welfare of the PUD occupants, the area surrounding the PUD project site, and the Village as a whole. This increase, however, shall not exceed fifty (50) percent of the underlying zoning district height limit. In authorizing an increase in height, the Planning Commission may require increased building setbacks and/or other conditions determined necessary to secure the public health, safety, or welfare and to ensure compatibility of the project with the surrounding area. In no case shall an increase in height be permitted if the increase will result in conditions beyond the service capability of the Village pursuant to emergency fire suppression and other emergency services.
- d. *Other Dimensional Regulations.* To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, reduce the other dimensional regulations, as required by the underlying zoning district, including but not limited to minimum lot size, density, and setbacks within the PUD project, upon a finding that the proposed dimensional regulations will not be detrimental to the public health, safety, or welfare of future occupants of the PUD, the surrounding neighborhood, or the Village as a whole. Any reductions by the Planning Commission shall be limited as follows:
  - i. Residential density shall not be reduced by more than thirty (30) percent of the underlying zoning district standard.
  - ii. Setbacks shall not be reduced by more than fifty (50) percent of the underlying zoning district requirements. Perimeter setbacks as required by the PUD regulations may not be reduced.
- e. Required parking shall not be reduced by more than sixty (60) percent of the parking normally required of the proposed use. In no case shall a single-family home, mobile or modular home, or other such detached single-family dwelling have less than two (2) on-site (off-street) parking spaces. In reducing the required parking, the Planning Commission may require the reservation of a portion of the PUD site for future parking.
- f. Prior to approving a reduction in dimensional regulations, the Planning Commission may require the applicant to demonstrate through bona fide documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments, and infrastructure impact studies, that the reduction will not result in significant impacts to the PUD project and PUD occupants, the surrounding area, and the Village as a whole.

### **Section 14.3 Planned Unit Development Eligibility Requirements**

To be eligible for a planned unit development, a parcel shall meet all of the following:

1. The parcel shall be four (4) contiguous acres or more in area. Provided, however, if the proposed PUD will contain a mixture of residential and non-residential uses, the parcel shall be ten (10) acres or more in area. For purposes of this subsection, recreational amenities, such as health clubs and facilities providing swimming pools or tennis courts, and commercial activities customarily incidental to a residential use shall not be considered non-residential uses.

2. The parcel on which the proposed PUD will be located shall be under single ownership, or the PUD application shall be filed jointly by all property owners.
3. The proposed uses within the PUD shall be consistent with the Village of Vanderbilt Master Plan for the subject parcel.

#### **Section 14.4 Pre-application Conference**

1. A pre-application conference shall be held with the Planning Commission or its representative, unless waived by the applicant, for the purpose of determining the eligibility of the proposed PUD application and to review the procedures and standards for PUD approval. The goals of the pre-application conference are to acquaint the Planning Commission, or its representative, with the applicant's proposed development, assist the applicant in understanding new or additional information which the Planning Commission will need to effectively consider the application, confirm that the application and all supporting documentation is ready for a public hearing, and to acquaint the applicant with the Planning Commission's initial, but unofficial reaction to the application. In no case shall any representations made by the Planning Commission, or its representative, at the pre-application conference be construed as an endorsement or approval of the PUD.
2. A request for a pre-application conference shall be made to the Zoning Administrator who shall schedule a date and time for the pre-application conference. As part of the pre-application conference, the applicant shall submit five (5) copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.

#### **Section 14.5 PUD Application Requirements**

An applicant seeking approval of a PUD shall submit a complete application to the Zoning Administrator. Once the Zoning Administrator determines that the PUD application is complete, he/she shall then forward the application to the Planning Commission for its review under the procedures of this section. The application shall include all of the following:

1. A completed application form, supplied by the Zoning Administrator.
2. Payment of a fee as established by resolution of the Village Council.
3. A narrative statement describing:
  - a. The objectives of the proposed PUD and how they relate to the intent of the Zoning Ordinance as described in Section 14.1, above.
  - b. The relationship of the proposed PUD to the Village of Vanderbilt's Master Plan.
  - c. Phases of development, if any, and the approximate time frame for the start and completion of construction of each phase.
  - d. Proposed master deed, deed restrictions, covenants or similar legal instruments to be used within the PUD.
  - e. Anticipated dates for the start and completion of the PUD construction.
  - f. The location, type and size of areas to be dedicated for common open space.
4. Twelve (12) copies of the site plan. If the PUD is to be developed in phases, the site plan shall show all phases. The site plan shall contain all of the following:
  - a. Applicant's name, address, and telephone and fax numbers.
  - b. Name, address, and telephone and fax numbers of the individual and firm who prepared the plan.
  - c. Name of development, scale of the plan drawing, and north arrow.
  - d. Location, shape, area and dimension of the lot, lots or acreage to be used, including a legal description of the property and the tax identification number(s) for the property.
  - e. Present zoning of the subject property and adjacent properties.

- f. All public and private rights-of-way and easement lines located on and adjacent to the subject property, which are proposed to be continued, created, relocated or abandoned, including the proposed use(s) and width(s) of all rights-of-way and easements.
- g. Location and total number of curb cuts, driveways, off-street parking spaces and loading spaces, including the dimensions of a typical parking space and the location(s) of barrier free parking spaces.
- h. Proposed exterior building dimensions (horizontal and vertical), gross floor area, number of floors and proposed uses.
- i. Location, dimensions, and uses of all existing and proposed structures, walks, malls, open areas, walls, fences, screen plantings and/or other landscaping.
- j. Existing and proposed sewer, water and other utility lines, plus location and type of sewage treatment facility, water source, and fire hydrants.
- k. Required setbacks of the zoning districts.
- l. Area of subject property to be covered by buildings.
- m. Location, size, height and orientation of all signs.
- n. All major environmental features, such as major stands of trees and other vegetation, wetlands, flood plains, drainage ways, outcroppings, slopes of ten (10%) or more gradient, and/or other surface features.
- o. Proposed methods of surface water drainage, including surface and subsurface facilities.
- p. Location and type of proposed lighting on the site.
- q. Percentage of the total site devoted to open space and the proposed uses of that open space.
- r. Proposed PUDs that include residential uses shall include the following additional information:
  - i. Minimum floor area of dwelling units.
  - ii. Total number of dwelling units proposed.
  - iii. Number of bedrooms per dwelling unit.
  - iv. Areas to be used for open space and recreation.
- s. Such other information regarding the development area that may be required to determine conformance with this Ordinance.

**Section 14.6 Public Hearing on PUD Request; Notice**

1. Following receipt of a complete PUD application, the Planning Commission shall hold at least one (1) public hearing. Notice of the public hearing shall be given not less than fifteen (15) days before the date the application for the planned unit development will be considered. The notice shall be sent via first class mail or personal delivery to all owners of the property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property being considered for planned unit development action, and to the occupants of all structures within 300 feet of the property being considered for planned unit development action. Such notification need not be given to more than one (1) occupant of a structure; except that if a structure contains more than one (1) dwelling unit or special area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or special area shall receive notice. In the case of a single structure containing more than four (4) dwellings units or other special areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
2. The notice shall do all of the following:
  - a. Describe the nature of the planned unit development application;
  - b. Describe the property which is the subject of the planned unit development application;
  - c. State when and where the planned unit development application will be considered; and

- d. Indicate when and where written comments will be received concerning the planned unit development application.

#### **Section 14.7 Planning Commission Review of PUD**

Following the public hearing the Planning Commission shall review the PUD application and shall approve, deny, or approve with conditions the PUD application based on the standards for PUD approval contained in Section 14.8, below. The Planning Commission's decision shall be in writing and shall include findings of fact, based on the evidence presented at the public hearing, on each standard.

#### **Section 14.8 Standards for PUD Approval; Conditions; Waiver of PUD Standards**

1. *General Standards.* The Planning Commission shall approve, or approve with conditions, a PUD application if the Planning Commission finds that the proposed PUD meets all of the following:
  - a. The planned unit development shall be consistent with the Village of Vanderbilt Master Plan.
  - b. The planned unit development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will be consistent with outdoor pedestrian movement. Vegetation proposed by the developer or required by the Planning Commission shall be maintained in a healthy living condition and such vegetation if dead shall be replaced.
  - c. The planned unit development shall not change the essential character of the surrounding area, unless such change is consistent with the Village's current master plan.
  - d. The planned unit development shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff odors, light, glare or other nuisance.
  - e. The planned unit development shall not place demands on public services and facilities in excess of current capacity, unless planned improvements, which will increase the capacity sufficient to service the development, have already been scheduled for completion.
  - f. The planned unit development shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development.
  - g. The planned unit development shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems intersecting or abutting such development.
  - h. The planned unit development shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely interfere with the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles to or within the development and adequate space for turning around at street ends shall be provided.
  - i. The planned unit development shall not result in any greater storm water runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion, and vegetation which no longer provides erosion control shall be replaced.

- j. The design of the planned unit development shall exhibit a reasonably harmonious relationship between the locations of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.
  - k. The design of the planned unit development shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
  - l. The planned unit development shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
  - m. The planned unit development shall meet the standards of other governmental agencies, where applicable.
2. *Conditions.* The Planning Commission may impose conditions with the approval of a planned unit development, which are necessary to ensure compliance with the standards for approval stated in this section. Such conditions shall be considered an integral part of the PUD approval and shall be enforced by the Zoning Administrator.
  3. *Waiver of PUD Standards.* The Planning Commission may waive any of the standards for a PUD contained in subsection (1) above where all of the following findings are documented along with the rationale for the decision:
    - a. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
    - b. The spirit and intent of the PUD provisions will still be achieved.
    - c. No nuisance will be created.

#### **Section 14.9 Planned Unit Development Permit**

Following final approval of a PUD application, a permit may be obtained from the Zoning Administrator. The issuance of this permit, however, shall not relieve the applicant from complying with applicable county, state, and federal permit requirements. The failure of the applicant to obtain any required county, state, or federal permit shall render the PUD permit issued under this subsection void.

#### **Section 14.10 Continuing Adherence to Approved PUD Application**

Any property owner who fails to develop and maintain an approved PUD according to the approved PUD application and conditions, if any, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

#### **Section 14.11 Recording of Action**

The applicant shall record an affidavit acceptable to the Village Attorney with the Otsego County Register of Deeds that contains the full legal description of the project site, specifies the date of final Village approval, specifies the description or identification number which the Village has assigned to the PUD project, and declares that all improvements will be carried out in accordance with the approved PUD application. If the Planning Commission approves an amendment to the PUD, the applicant shall record an amended affidavit acceptable to the Village Attorney that contains all of the information described above, describes the amendment, specifies the date the Planning Commission approved the amendment, and declares that the improvements will be

carried out in accordance with the approved PUD, as amended. Finally, all deed restrictions and easements shall be duly filed with the Otsego County Register of Deeds and copies of recorded documents filed with the Zoning Administrator.

#### **Section 14.12 Amendment of an Approved Planned Unit Development**

Amendments to an approved PUD shall be permitted only under the following circumstances:

1. The owner of property for which a PUD has been approved shall notify the Zoning Administrator of any desired change to the approved PUD. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - a. Reduction of the size of any building and/or sign.
  - b. Movement of buildings and/or signs by no more than ten (10) feet.
  - c. Landscaping approved in the PUD plan that is replaced by similar landscaping to an equal or greater extent.
  - d. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
  - e. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
  - f. Changes related to items (a) through (e) above, required or requested by Otsego County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval.
2. All amendments to a PUD approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised development plan showing the approved amendment. The revised development plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
3. An amendment to an approved PUD that cannot be processed by the Zoning Administrator under subsection (1) above shall be processed in the same manner as the original PUD application.

#### **Section 14.13 Expiration of Approved PUD; Extension**

1. An approved PUD shall expire one (1) year following final approval by the Planning Commission, unless substantial construction has begun on the PUD project prior to that time or the property owner applies to the Planning Commission for an extension prior to the expiration of the PUD. The Planning Commission may grant one (1) extension of an approved PUD for an additional one (1) year period if it finds:
  - a. The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
  - b. The PUD requirements and standards that are reasonably related to the development have not changed.
2. If the PUD approval expires pursuant to subsection (1) above, no work pursuant to the PUD plan may be undertaken on the project until a new PUD approval is obtained from the Planning Commission following the procedures for a new PUD application. In addition, if the PUD approval expires, the property shall again be subject to the zoning classification of the property which existed prior to the PUD approval as if no PUD approval had ever been granted.

#### **Section 14.14 Performance Guarantee**

In connection with the development of a PUD project, the Planning Commission may require the applicant to furnish the Village of Vanderbilt with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Village in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the PUD or which the applicant has agreed to construct even though located outside the PUD. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission, which are located within the PUD. For purposes of this subsection, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Village Treasurer at or before the time the Village issues the permit authorizing the PUD, or if the PUD has been approved in phases, then the performance guarantee shall be deposited with the Village Treasurer prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the PUD public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the PUD or each phase of the PUD in the following manner:

1. One-third of the cash deposit after completion of one-third of the PUD public and site improvements;
2. Two-thirds of the cash deposit after completion of two-thirds of the PUD public and site improvements; and
3. The balance at the completion of the PUD public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the PUD public improvements. If a PUD project is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this subsection for each phase of the PUD project. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the Village as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this subsection.

**ARTICLE XV: VALIDITY, REPEAL OF PRIOR ORDINANCE, AND ENACTMENT**

**Section 15.1 Validity**

If any part, section, paragraph, sentence, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

**Section 15.2 Repeal of Prior Ordinance**

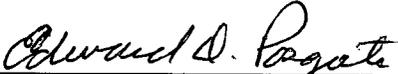
The Zoning Ordinance of the Village of Vanderbilt previously adopted by the Village of Vanderbilt Council in 1972 and all amendments thereto, are hereby repealed. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted, or inflicted.

**Section 15.3 Enactment**

The required public hearing was held on the 28th day of April, 2008 for this Zoning Ordinance of the Village of Vanderbilt, and the Ordinance was adopted by the Village of Vanderbilt Council at a regular meeting held on the 5th day of May, 2008.

Notice of adoption shall be published in a newspaper having general circulation in the Village of Vanderbilt within fifteen (15) days after adoption.

This Zoning Ordinance shall take effect eight (8) days after publication in a newspaper of general circulation in the Village.

  
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Edward D. Posgate, Village President

  
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Shirley A. Hawk, Village Clerk