

Town of Great Valley Zoning Law

Adopted
September 2008
Amended April 12, 2010
Amended August 8, 2011

Town of Great Valley Zoning Law

Adopted by the Town Board
September 8, 2008
Amended April 12, 2010
Amended August 8, 2011

Prepared for
Town of Great Valley Comprehensive Plan Committee &
Zoning Commission
and
Town Board

Prepared by:

Carol Horowitz, AICP
Allegheny Planning Services
305 York Street
Olean, NY 14760
716-373-2289

Mark D. Alianello, P.E.
Consulting Engineer
One Washington Street
Ellicottville, NY 14731
716-699-4650

**TOWN OF GREAT VALLEY
ZONING LAW**

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1: MISCELLANEOUS PROVISIONS	
Section 1.1 Enacting Clause -----	1-1
Section 1.2 Short Title-----	1-1
Section 1.3 Intent and Purpose -----	1-1
Section 1.4 Relationship to Other Laws-----	1-2
Section 1.5 Creation of Zoning Districts and Zoning Map-----	1-2
Section 1.6 Interpretation of Zoning District Boundaries -----	1-2
Section 1.7 Lots located in More than One Zoning District -----	1-2
Section 1.8 More than One Principal Use per Lot -----	1-3
Section 1.9 Access to Street -----	1-3
Section 1.10 State Environmental Quality Review Act -----	1-3
Section 1.11 Fees -----	1-3
Section 1.12 Court Review -----	1-4
Section 1.13 Separability -----	1-4
 ARTICLE 2: DEFINITIONS	
Section 2.1 Rules -----	2-1
Section 2.2 Definitions -----	2-1
 ARTICLE 3: DISTRICTS AND REGULATIONS	
Section 3.1 Zoning Districts -----	3-1
Table 3.1 Land Use Table-----	3-7
Section 3.2 Dimensional Regulations -----	3-12
Table 3.2 Table of Dimensional Regulations -----	3-12
 ARTICLE 4: SUPPLEMENTARY REGULATIONS	
Section 4.1 Performance Standards -----	4-1
Section 4.2 Signs-----	4-2
Section 4.3 Off-street Parking, Loading Areas, Drive-through Windows and Road Standards -----	4-12
Section 4.4 Manufactured Homes, Mobile Homes and Trailers-----	4-18
Section 4.5 Accessory Apartments -----	4-21
Section 4.6 Farmworker Housing -----	4-22
Section 4.7 Bed and Breakfast Establishment -----	4-22
Section 4.8 Home-based Businesses-----	4-23
Section 4.9 Yard Sales -----	4-26
Section 4.10 Site Design Standards -----	4-26
Section 4.11 Townhouse Development -----	4-30
Section 4.12 Telecommunications Facilities -----	4-32
Section 4.13 Small-scale Wind Energy Conversion Systems -----	4-44
Section 4.14 Adult Use Regulations -----	4-49
Section 4.15 Private Viewing Booths -----	4-51

ARTICLE 5: NON-CONFORMING LOTS, BUILDINGS AND USES

Section 5.1 Purpose----- 5-1
Section 5.2 Continuation of Use ----- 5-1
Section 5.3 Discontinuance of Use----- 5-1
Section 5.4 Change of Use ----- 5-1
Section 5.5 Repairs and Alterations----- 5-2
Section 5.6 Restoration, Reconstruction, and/or Rehabilitation ----- 5-2
Section 5.7 Extension----- 5-2
Section 5.8 Lots of Record----- 5-2

ARTICLE 6: ADMINISTRATION AND ENFORCEMENT

Section 6.1 General Procedure ----- 6-1
Section 6.2 Zoning Officer ----- 6-1
Section 6.3 Zoning Permits ----- 6-2
Section 6.4 Certificate of Zoning Compliance ----- 6-5
Section 6.5 Violations and Penalties ----- 6-5

ARTICLE 7: ZONING BOARD OF APPEALS

Section 7.1 Organization ----- 7-1
Section 7.2 Powers and Duties ----- 7-2
Section 7.3 Variances ----- 7-3
Section 7.4 Application Procedures ----- 7-5

ARTICLE 8: SPECIAL USE PERMITS

Section 8.1 Purpose----- 8-1
Section 8.2 Authorization to Grant Special Use Permits----- 8-1
Section 8.3 Application Materials ----- 8-1
Section 8.4 Standards for Review of Special Use Permit Applications ----- 8-2
Section 8.5 Application Procedure----- 8-4
Section 8.6 Coordination of Review----- 8-6
Section 8.7 Compliance With Conditions of Approval and Inspection----- 8-6
Section 8.8 Abandoned Application ----- 8-7
Section 8.9 Expiration of Special Use Permit----- 8-7
Section 8.10 Revocation of Approval of Special Use Permit----- 8-7
Section 8.11 Amendment to Special Use Permit----- 8-7

ARTICLE 9: SITE PLAN REVIEW

Section 9.1 Purpose ----- 9-1
Section 9.2 Authority----- 9-1
Section 9.3 Applicability and Exceptions ----- 9-2
Section 9.4 Application Content ----- 9-3
Section 9.5 Standards for Review of Site Plan ----- 9-6
Section 9.6 Application Process----- 9-7
Section 9.7 Consultant Review and Fees----- 9-9
Section 9.10 Compliance With Conditions of Approval and Inspection ----- 9-9
Section 9.11 Site Plan Revision----- 9-10
Section 9.12 Revocation of Site Plan Approval ----- 9-10
Section 9.13 Abandoned Application----- 9-10

ARTICLE 10: PLANNED UNIT DEVELOPMENT (PUD)

Section 10.1 Purpose ----- 10-1
Section 10.2 Authorization ----- 10-1
Section 10.3 Applicability ----- 10-2
Section 10.4 Pre-Application Conference----- 10-3
Section 10.5 Procedure for Preliminary Planned Unit Development Plan &
Planned Unit Development District ----- 10-3
Section 10.6 Procedure for Final Planned Unit Development Plan ----- 10-5
Section 10.7 Application Requirements for Planned Unit Development District
and Preliminary Planned Unit Development Plan ----- 10-6
Section 10.8 Application Requirements for Final Planned Unit
Development Plan----- 10-7
Section 10.9 Standards for Planned Unit Developments ----- 10-8
Section 10.10 Ownership and Maintenance of Open Space ----- 10-10

**ARTICLE 11 TRANSFER OF DEVELOPMENT RIGHTS
(Reserved for future use)**

ARTICLE 12: COUNTY REFERRAL

Section 12.1 Proposed Actions Subject to Referral----- 12-1
Section 12.2 Geographic Criteria ----- 12-1
Section 12.3 County Planning Board Review ----- 12-2
Section 12.4 Report of Final Action ----- 12-2

ARTICLE 13: AMENDMENTS

Section 13.1 Town Board May Amend ----- 13-1
Section 13.2 Planning Board Review----- 13-1
Section 13.3 Public Notice and Hearing ----- 13-1
Section 13.4 Adoption----- 13-2
Section 13.5 Filing Requirements----- 13-3

ARTICLE 14: EFFECTIVE DATE----- 14-1

ARTICLE 1

MISCELLANEOUS PROVISIONS

Section 1.1 Enacting Clause

Pursuant to Article 2 of the Municipal Home Rule Law and Article 16 of New York State Town Law, the Town Board of the Town of Great Valley, Cattaraugus County, New York has ordained and does hereby enact the following Zoning Law.

Section 1.2 Short Title

This Law shall be known as the Town of Great Valley Zoning Law, and is referred to herein as the “Local Law,” “Law,” or the “Code”.

Section 1.3 Intent and Purpose

In order to promote the general health and welfare of the present and future inhabitants of the Town; to protect property values of the Town and the neighborhoods within the Town; to prevent the overcrowding of land and to avoid undue concentration of the population; to facilitate the practice of forestry and agriculture; to facilitate the adequate but economical provision of transportation, water , sewerage, schools, parks and other public improvements; to provide adequate light and air; to secure public safety from fire, flood, panic and other dangers; to protect and enhance the quality of life; and to create an atmosphere attractive to visitors and residents, the Town Board of the Town of Great Valley finds it necessary and advisable to regulate the location, size, and use of buildings and structures and the use of land for trade, industry, residences, recreation and other purposes, and for such purposes divides the Town into districts or zones.

The intention of the Town is to assure proper and sensitive development of land within the Town. This Code is intended to allow development in a manner that encourages the preservation of the scenic character and rural scale of the community, while allowing for appropriate development. This Law seeks to prevent development that adds to existing geologic hazards, erosion, flooding, or other conditions that create potential dangers to life and property and to prevent development that adversely affects significant environmental resources, such as protected streams and aquifers.

These regulations have been made with reasonable consideration, among other factors, as to the character of the district and its particular suitability for such uses, and with a view to encouraging the most appropriate use of land throughout the Town. These regulations have been made in accordance with the Town of Great Valley Comprehensive Plan.

Section 1.4 Relationship to Other Laws

Where the conditions imposed by any provision of this Zoning Law are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this law or any other law, ordinance, resolution, rule or regulation of any kind, the laws, ordinances and regulations which are more restrictive or which impose higher standards or requirements shall govern.

Section 1.5 Creation of Zoning Districts and Zoning Map

- A. In order to carry out the purposes of this Code, zoning districts have been established as set forth in Article 3 of this Local Law.
- B. The locations and boundaries of the aforesaid zoning districts are hereby established on a scaled map, entitled "Zoning Map of the Town of Great Valley," which is kept on file by the Town Clerk. This map is hereby made a part of this Zoning Law and shall have the same force and effect as if the zoning map together with all notations, references and other information shown thereon were fully set forth and described herein.

Section 1.6 Interpretation of Zoning District Boundaries

- A. The zoning district boundary lines are intended to conform to existing property boundary lines, except when boundary lines follow a right-of-way line. However, when district boundary lines are located by specific dimensions, the dimensions shall control.
- B. Where the zoning district boundary lines approximately follow the lot lines as they exist at the date of adoption of the Code, the district lines shall conform to the lot lines.
- C. Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, railroads, public utility easements, or watercourses, said boundaries shall be construed to be coincident with such lines.

Section 1.7 Lots Located in More Than One Zoning District

- A. If a lot is divided into more than one zoning district, the regulations for each zoning district shall govern each portion of the lot, provided, however, that each portion of the lot separately conforms to all regulations of the applicable zoning district. In the event that the lot cannot conform to all regulations for each zoning district, the regulations for the district in which the greater part of the lot lies shall govern.

- B. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, the regulations applicable to the greater part of the lot shall be deemed to apply to the entire lot.

Section 1.8 More than one Principal Use per Lot

More than one structure containing a principal permitted or special permitted use may be allowed on a single lot, provided that the yard (setback), area, frontage and other requirements of this Zoning Law shall be met for each structure, as if they were located on individual lots. Where otherwise allowed in this Zoning Law, a principal building may contain more than one allowable use, such as offices and retail uses.

Section 1.9 Access to Street

Every building or structure shall be constructed or erected upon a lot which has legal access to an existing street. Such existing street may be either a public or private street. If the lot does not abut an existing street, access may be provided in the form of a permanent access easement, which has been legally recorded in the Office of the Clerk of Cattaraugus County.

Section 1.10 State Environmental Quality Review Act

Prior to final action on any application that is required by this Code, the Town Board, Planning Board, Zoning Board of Appeals and any other authorized reviewing agency or board shall fully comply with all applicable provisions of the State Environmental Quality Review Act (SEQRA), Part 617.

Section 1.11 Fees

- A. A schedule of fees for all permits and applications required by this Local Law may be established by the Town Board. The Town Board may change the fee schedule from time to time.
- B. **SEQRA Fees.** Fees may be required by the Town pursuant to Section 617.13 of 6 NYCRR Part 617, the New York State Environmental Quality Review Act (SEQRA). The Town shall charge a fee to the applicant to cover the actual costs of preparing or reviewing a draft and/or final Environmental Impact Statement (EIS). The applicant shall not be charged for both the preparation and review of the EIS. If the applicant prepares the EIS, the Town shall charge the applicant for the actual cost of the review. If the applicant does not prepare the EIS, the Town shall charge the applicant for the actual cost of preparing the EIS.

- C. **Site Plan Review Fees.** Pursuant to Section 9.7 of this Zoning Law, the Town may charge a fee for all costs of review of the site plan application, including Town consultants, Town Engineer and/or Town Attorney.

Section 1.12 Court Review

Any person or persons, jointly or severally aggrieved by any decision of the Town Board, Zoning Board of Appeals, the Planning Board or any officer, department, board or bureau of the Town, pursuant to this Code, may apply to the Supreme Court for review by a proceeding under article seventy-eight of the civil practice law and rules, in accordance with the procedures set forth therein.

Section 1.13 Separability

If any part or provision of this Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances and the Town Board hereby declares that it would have enacted this Law or the remainder thereof had the invalidity of such provision or application thereof been apparent.

ARTICLE 2 DEFINITIONS

Section 2.1 Rules

The following rules shall apply to interpreting the text of this zoning ordinance:

- (1) Words used in the present tense shall include the future tense.
- (2) Words used in the singular shall include the plural, and words used in the plural shall include the singular.
- (3) Words used in the masculine form shall include the feminine.
- (4) The word "shall" is mandatory. The word "may" is permissive.
- (5) The word "lot" shall include the words "plot," "piece," and "parcel."
- (6) The word "person" shall include an individual, firm, trust, partnership, association or corporation.
- (7) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (8) The phrases "to erect," "to construct," and "to build" a structure have the same meaning and include the excavation for a structural foundation and the relocation of a structure from one location to another.

Section 2.2 Definitions

Abandonment To cease or discontinue a use.

Accessory Apartment A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit located on the same lot. See Article 4.

Accessory building A building located on the same lot as a principal building or use and used for purposes customarily incidental to and subordinate to the principal building or use.

Accessory use A use on the same lot with and of a nature customarily incidental and subordinate to the principal use.

Adult use Any use or establishment constituting an adult entertainment cabaret/theater, Adult Arcade, adult massage establishment, adult motel or hotel, Adult Movie Theater, Adult Retail Store, body painting studio, or adult model studio as defined herein, or similar use that excludes any minor by reason of age.

Adult Arcade: A business enterprise that offers or maintains one or more adult viewing booths.

Adult Entertainment Cabaret/Theater: A public or private nightclub, bar, restaurant, theater or similar establishment which presents topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, exotic dancers, motion pictures, films, video tapes or slide shows, and which establishment excludes any minor by reason of age.

Adult Massage Establishment: Any establishment having a fixed place of business where massages are administered for pay, including, but not limited to massage parlors, sauna baths and steam baths or similar use that excludes any minor by reason of age. This definition shall not be construed to include a hospital, nursing home, medical clinic, or office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or duly licensed massage therapist. This definition shall not be construed to include barber shops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise such as tennis courts, racket ball courts, or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

Adult Model Studio: Any establishment where, for any form of consideration or gratuity, figure models are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by any person other than the proprietor, paying such consideration or gratuity and which excludes any minor by reason of age. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution, which meets the requirements established by the New York State Education Law for the issuance of diplomas and is in fact authorized to issue and confer diplomas.

Adult Motel/Hotel: A motel or hotel which excludes minors by reason of age, and/or which rents, leases, or lets any room for less than a six-hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

Adult Movie Theater: A business enterprise which regularly features or offers to the public the presentation of motion-pictures, films, movies, DVDs, and/or sound recordings which are presented to a common audience of more than five persons in an enclosed common area or are presented in a common area of more than 150 square feet, and which excludes any minor by reason of age.

Adult Painting Studio: An establishment or business which provides the service of applying paint or other substance whether transparent or non-transparent to or on the human body and which excludes any minor by reason of age.

Adult Retail Store: A business establishment that offers for sale sexually oriented materials, toys and/or novelties and which excludes any minor by reason of age.

For purposes of this definition, *sexually oriented toys and novelties* are defined as instruments, devices or paraphernalia either designed as representations of human

genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs, except medical devices approved by the US Food and Drug Administration.

For purposes of this definition, *sexually oriented materials* are defined as toys, novelties, books, pamphlets, magazines and other periodicals, sculptures, photographs, pictures, slides, video tapes, films, CDs, CD-ROMs, DVDs, magnetic and digital media, electronic reproductions, pictorial representations, sound recordings and similar materials that have sexually explicit content.

Exception: A business enterprise which devotes less than ten percent of the stock-in-trade and/or less than ten percent of its sales and display floor area to sexually oriented materials, toys and/or novelties and which keeps all sexually oriented toys, novelties, and materials separated from other sales and display areas by an opaque wall at least eight feet in height with a management- controlled system of access to ensure that only persons over the age of 18 years are allowed to enter the area shall not be considered an Adult Retail Store. Any such excluded business shall not advertise sexually oriented materials as part of its exterior signage.

Adult Viewing Booth: Any booth or cubical that is designed or used to hold or seat patrons and that is used for presenting sexually explicit live shows, motion pictures or for viewing publications by any photographic, electronic, magnetic, digital or other means or media, for observation by five or fewer persons at one time and that excludes any minor by reason of age. An adult viewing booth shall not mean an adult entertainment cabaret, adult movie theater, or a room or enclosure that contains more than 150 square feet.

Airstrip A private airport for the landing and takeoff of small, non-commercial aircraft. The runway may or may not be paved. An airstrip may also be known as a landing strip. An airstrip may include all necessary facilities for the housing, operation and maintenance of aircraft.

Agricultural Processing The processing of crops and dairy products produced on site to prepare them for sale off site, including the following and similar activities: Sorting, cleaning, milling, drying, hulling, packing, and storage.

Agricultural Sales and Services The sale or rental of farm tools and implements, feed, grain, tack, animal care products and farm supplies, but not including the sale of large implements such as tractors and combines.

Agriculture (1) The use of land for the growing of plants and crops in the open, including any necessary accessory structures, but not including agricultural processing. Types of agriculture include, but are not limited to, horticulture, floriculture, viticulture, production of maple syrup and maple sugar, tree farms, and mushroom farms, and/or (2) The keeping of livestock, including the breeding, raising or grazing of livestock, including dairy farming or beef cattle, bison ranches, apiculture, and fish farming.

Products derived from the livestock, such as milk or wool, may be stored on site, but no commercial manufacturing or processing of the product may be allowed (i.e. no manufacture of cheese or ice cream). Commercial slaughtering of livestock shall not be permitted.

ATM See “Automated Teller Machine.”

All Terrain Vehicle (ATV) Any motorized, off road vehicle designed to travel on three or more tires.

ATV Park A for-profit, commercial establishment where ATVs and similar motorized off-road vehicles are ridden. However, a snowmobile trail shall not be construed to be an “ATV Park.”

Alteration As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending any portion or by increasing in height, or the moving from one location or position to another.

Animal Boarding Establishment Any structure, land or combination thereof, which is used for the boarding or overnight care of dogs, cats, pets, birds, or other domestic animals, for profit, but not agricultural animals. An Animal Hospital is not an animal boarding establishment.

Animal Grooming Establishment A commercial establishment where animals are bathed, clipped and/or combed, for a fee.

Animal Hospital A building or part thereof used by veterinarians primarily for the purposes of consultation, diagnosis and office treatment of household pets or livestock, but shall not include long-term boarding facilities for animals. However, overnight stays of animals being treated by the veterinarian are allowed.

Area, Building The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, not including uncovered porches, decks, terraces and steps. All dimensions shall be measured from exterior wall to exterior wall.

Area, Lot The total area within the boundary lines of a lot.

Art & crafts studio A commercial establishment (at a greater intensity than a home-based business) where handmade crafts and arts are produced and sold. An arts and crafts studio may house occupations such as painting, sculpting, pottery, weaving, glass-blowing, jewelry-making, woodworking, furniture making, candle-making, and similar crafts and arts.

Automated Teller machine (ATM) A freestanding automated facility, used by either pedestrians or as a drive through facility, to provide banking services that is operated by the customer.

Automobile Body Shop A building used for the repairing or painting of the exterior and/or undercarriage of motor vehicle bodies, in conjunction with which there may be towing service and motor vehicle rentals for customers while the motor vehicle is under repair. All work shall be conducted within a wholly enclosed building or buildings.

Automobile and Vehicle Repair Shop An establishment where repairs to, and servicing, greasing, and adjusting of, automobiles and/or other motor vehicles may be performed. The sale of motor vehicle fuels and lubricants may be conducted as an accessory use. Towing of disabled vehicles may also be conducted. All storage of accessories and repairing and servicing shall be conducted within a wholly enclosed building or buildings.

Automobile and Vehicle Sales Establishment A lot, building, or structure where new or used automobiles, trucks, motorcycles, recreational vehicles, boats, snowmobiles, ATVs, and/or other motor vehicles are available for sale.

Bank See "financial institution."

Bar A commercial establishment licensed by the State of New York to serve alcoholic beverages and which is designed primarily for the consumption of such alcoholic beverages on the premises, irrespective of whether or not food and/or entertainment are also provided as accessory uses.

Barber shop Any commercial establishment within which the practice of barbering is engaged in by one or more barbers.

Beauty shop Any commercial establishment providing a personal service to men, women or children by shampooing, cutting, styling, tinting or treatment of hair, by giving manicures, pedicures or facial treatments. Hair products may be sold as an ancillary use.

Bed & Breakfast Establishment An owner-occupied single family dwelling in which up to five rooms are available for overnight accommodations to guests for a fee, and where breakfast is provided to the guests only. See Article 4.

Boarding Stable See Stable, Boarding.

Body piercing establishment A commercial establishment in which a person or persons intentionally pierces any part of the body, except the ears, of another person or persons, for the purpose of allowing the insertion of earrings, jewelry or similar objects into the body.

Bowling Alley A commercial establishment that devotes more than 50 percent of its gross floor area to bowling lanes, equipment and playing area.

Brew pub A restaurant that includes the brewing of beer as an accessory use intended for consumption on the premises. Such accessory use may occupy up to 30 percent of the gross floor area of the restaurant.

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

Building area See “area, building.”

Business school A for-profit educational institution that provides training in business, secretarial and technical skills in fields such as, but not limited to, computers, data processing, accounting, plumbing carpentry, electricity, etc. A business school could also provide instruction in such artistic fields as dance, music, and drawing. See also trade school.

Business support services An establishment providing services to business and commercial establishments on a fee or contract basis, or which may be open to the general public, including but not limited to advertising services, business equipment and furniture sales or rental, or security services. Business support services may include, but are not limited to, employment agency, photocopy center, mailing service, copying and printing services, and similar services.

Caliper The diameter of a tree, measured at six inches above the ground for trees with a diameter of up to four-inch caliper and measured at twelve inches above the ground for trees with a caliper of more than four inches.

Campground (1) An area of land or water, used for a range of overnight camping experiences, on which are located two or more cabins, tents, trailers, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other temporary living accommodations, including accessory facilities which support the use, such as administration offices and laundry facilities, but not including the use of manufactured homes on a year round basis; and/or
(2) Any area that is occupied or intended or designed for occupancy by transients using recreational vehicles, motor homes or vacation trailers for temporary recreational overnight lodging; and/or
(3) Any land, including any building thereon, used for any assembly of persons for what are commonly known as day camp purposes, including recreation, arts and crafts, sports and incidental food service.

Car wash A commercial establishment containing facilities for washing and/or waxing private automobiles, recreational vehicles, and similar motor vehicles. Coin-operated facilities open on a self-service basis shall be construed to be car washes.

Cemetery Land that is set apart or used as a place for the internment of the dead.

Certificate of Zoning Compliance A certificate issued by the Zoning Officer that certifies that conditions specified in this Zoning Law have been met, that the parcel is properly zoned for the use that is proposed, and that the intended use is allowable. Said certificate shall acknowledge any adjustments to the requirements of this Law granted by the Zoning Board of Appeals or any approvals and conditions of approval granted by the Planning Board. Certificates of Zoning Compliance will be issued after all necessary construction has been completed and prior to occupancy of the structure.

Civic Facility Buildings and structures owned and/or operated by a governmental agency, fire district, or fire company.

Clothing store Retail store where clothing is sold, such as department stores, dry goods and shoe stores, and dress, hosiery and millinery shops.

Cluster development A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space or the preservation of historically or environmentally sensitive features.

Club A building or portion thereof or premises owned and/or operated by a corporation or association for a social, educational or recreational activity, but not primarily for profit or to render a service which is customarily carried on as a business. The term "club" shall also refer, where the context requires it, to the members of such organization. A club may also be referred to as a fraternal organization.

Commercial Establishment A business use or activity, at a scale greater than a home-based business, involving retail or wholesale marketing of goods and services for a profit. Examples of commercial establishments include offices and retail shops.

Commercial Recreation Establishment A recreational facility operated as a business and open to the public for a fee. Types of commercial recreation establishments include Miniature golf, Golf driving ranges, Tennis courts, Swimming pools, Ice/roller skating arenas, Bowling alleys, Skate board parks and similar establishments; however facilities that allow the riding of ATVs, motorcross vehicles, and similar vehicles for a fee shall not be included in the definition of commercial recreation facilities.

Contractor's yard An establishment of any general contractor or builder where equipment and materials are stored or where a contractor performs shop or assembly work. The contractor's office may also be located on site.

Copy shop A retail establishment that provides duplicating services using photocopying, blueprint and offset printing equipment and may include the collating and binding of booklets and reports. A copy shop may also be known as a print shop.

Coverage See "Lot Coverage."

Cultural Facility A facility which provides services to the public such as but not limited to museums, art galleries and libraries, whether provided by a public, private or non-profit organization. See also "Museum" and "Library."

Day Care Facility, Child An establishment where care is provided for one or more children on a regular basis, for periods of less than 24 hours per day in a place other than the child's own dwelling unit. Programs could include those for children who are under the minimum age to attend public school and/or pre-school, after-school and school-vacation care for school-aged children. Activities could be either educational (such as a nursery school) or primarily caretaking in character. Day care facilities that are regulated by Section 390 of NYS Social Services Law are not included in this definition and are exempt from these regulations.

Day Care Facility, Adult An establishment providing care for the elderly and/or functionally impaired adults in a protective setting for periods of less than 24 hours per day.

Drive-Up / Drive-Through Window An accessory use to a commercial building, usually a bank or a restaurant, in which a customer drives his/her automobile up to an opening in the building, from which the customer transacts business without getting out of the vehicle.

Drug Store A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies and nonprescription medicines, but where nonmedical products are sold as well.

Dwelling Unit A building or portion thereof that provides complete housekeeping facilities for one family. Each dwelling unit shall have its own sleeping, cooking, and toilet facilities. A dwelling unit is designed for permanent occupancy and shall not be construed to include a hotel, motel or other such use of a transient nature.

Dwelling, Single family A building that contains one dwelling unit.

Dwelling, Single Family Attached A dwelling that is joined to one or more other dwellings at one or more sides by a party wall.

Dwelling, Single Family Detached A building that contains one dwelling unit, which is not attached to any other dwelling by any means and which is surrounded by open space and/or yards.

Dwelling, Two family A building that contains two dwelling units.

Dwelling, Multiple family A building that contains three or more separate dwelling units.

Electronic Message Display: A sign with a fixed or changing display, composed of a series of lights, that is capable of displaying words, symbols, figures, or images and that can be electronically changed by remote or automatic means. A “Time and Temperature Unit” is not an electronic message display.

Factory-built housing A factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of three types: modular homes, mobile homes, and manufactured homes.

Family A household constituting a single housekeeping unit occupied by one or more persons.

Farm stand A stand selling Christmas trees grown on or off the premises, or a seasonal accessory use to an agricultural enterprise, where products predominantly grown on the farm, or neighboring farms, are sold to the public. An authorized farm stand shall not be prohibited from selling fresh agricultural products produced elsewhere. A farm stand shall only be open during the season in which products are produced and sold. A farm stand may not be a permanent, year round enterprise.

Farmer’s Market An occasional or periodic market held in an open area or in a structure, where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and craft items and food and beverages, where the vendors are generally individuals who have raised or produced the produce and products for sale.

Farmworker Housing A dwelling, including a mobile home or manufactured home, located on a farm for the purposes of housing an employee of that farm operation, and may also provide housing for the employee’s family. Farmworker housing is an accessory use to the principal use of a parcel or parcels for agricultural purposes. See Article 4.

Feed and Grain Storage Facility A structure in which is stored agricultural produce, intended for wholesale distribution, which may include an accessory retail outlet, for sale of such agricultural produce to the general public.

Feed Store A commercial establishment engaged in retail sale of animal feed and other supplies that are directly related to the day-to-day activities of agricultural production.

Food Processing Establishment An industrial use producing or processing foods for human consumption. Food processing establishments include commercial bakeries (except bakeries that produce goods only for on-site sales with no wider distribution); bottling of beverages; canning; dairy products processing, including the manufacture of ice cream; preparation of frozen foods, and similar activities.

Forestry The growing or harvesting of tree species for commercial purposes.

Financial Institution The premises of a bank, credit union, savings and loan company, trust company, finance company, mortgage company, investment company or similar institution.

Fitness center See “health club.”

Floor Area, Gross The sum of the floor area of all stories in a structure, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Gross floor area shall exclude basements and attics.

Fraternal organization See “Club.”

Funeral Home A building used for human funeral services. Such buildings may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the storage of caskets and other related funeral supplies; and (c) the storage of funeral vehicles. A funeral home shall not include facilities for cremation.

Frontage That part of a lot abutting on a street. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.

Garage, Private An accessory building, or part of the principal residential building, which is designed or used for the storage of motor vehicles. A private garage may not be used for commercial automotive repair.

Gasoline Station A retail establishment where motor vehicle fuels and lubricants are sold to individuals. Light maintenance activities such as engine tune-ups and minor repairs may be conducted, but such activities shall not include major automotive repairs, collision service and/or automobile painting.

Gasoline station with mini mart An establishment where gasoline and minor accessories such as motor oil and lubricants are sold directly to the public on the premises in combination with the sale of food items typically found in a grocery store.

Golf Course An establishment for playing the game of golf and having tees, greens, fairways and hazards. A golf course may have a clubhouse as an accessory use.

Golf Driving Range A commercial establishment equipped with distance markers, clubs, balls, and tees for practicing golf drives and putting, and which may include a snack-bar and/or pro shop as accessory uses.

Grade: The slope of a road, street, or other public way, specified in percentage terms.

Grade, Finished The elevation at which the finished surface of the surrounding lot meets the walls or supports of a building or structure.

Grade, Natural The existing grade or elevation of the ground surface that exists or existed prior to man-made alterations, such as grading, grubbing, filling or excavating.

Greenhouse, retail A retail business whose principal activity is the selling of plants grown on the site, in the open or in enclosed buildings, and having outside storage and/or display areas. Mulch, soil, gardening equipment and similar products may also be sold.

Greenhouse, wholesale A wholesale business whose principal activity is the growing of plants within an enclosed building. Plants may be stored on site, and may be sold to wholesalers. Mulch, soil, gardening equipment and similar products may also be sold. No retail sales to the general public is permitted.

Grocery store Retail store where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer for sale home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

Gross Floor Area See “Floor area, gross.”

Gun club Any building or premises where there are facilities of any sort for the firing of handguns, rifles, or other firearms. Also see hunting club.

Health club A facility where members or nonmembers use equipment or space for the purpose of physical exercise, such as weight lifting, running, swimming and court sports. The facility may be operated either for profit or not for profit. The facility may contain ancillary features such as locker rooms, sauna and showers for use by patrons. See also, spa.

Height The vertical distance measured from the average elevation of the proposed finished grade to the highest point of a building or structure. If the finished grade is not reasonably horizontal, the average elevation of all sides of the structure/building shall be used for purposes of computing the height of the building or structure. For WECS, height shall be measured from existing ground to the apex of the blade at its most extended height.

Historic Resource Any historic building, structure, facility, site or district, or prehistoric site that is listed on the State and/or National Registers of Historic Places. Any historic building, structure, facility site or district or prehistoric site that has been proposed by the New York Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register of Historic Places. Any locally significant historic resource designated pursuant to Article 5-K of the New York State General Municipal Law.

Home-Based Business Any land use activity undertaken for gain within a dwelling unit, or within a structure that is accessory to the dwelling unit and on the same lot, by the

resident or residents thereof. A home based business is an accessory use, and shall be clearly incidental and secondary to the use of the structure as a residence. See Article 4.

Hotel A building or group of buildings where sleeping accommodations are provided to the public for transient occupancy. A hotel may or may not include group dining facilities. A hotel may also be known as a motel or an inn.

Hunting club Areas reserved for hunting of wildlife, fishing and accessory structures, used by members of the facility or their guest. See also “Gun club.”

Industrial Establishment A business use or activity, that involves manufacturing, fabrication, assembly, warehousing, and/or storage.

Inn See “Hotel.”

Junk yard Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same, or for any other purpose. “Junk yard” shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles, which taken together, shall equal in bulk two or more such vehicles. “Junk yard” shall also include the open storage or deposit of one or more inoperable pieces of construction equipment; one or more discarded or inoperable household appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions; one or more discarded or irreparably damaged pieces of furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers; disassembled machinery or appliances; and/or scrap metal, paper, or rags.

Kennel Any establishment where domestic animals, such as dogs and cats, are boarded, trained or bred for profit.

Landing Strip See “Airstrip.”

Laundromat A commercial establishment where laundry machines, using only water, and clothes dryers are made available to the public. A laundromat may also provide a drop-off, pick-up laundry service

Library A public facility for the use, but not the sale, of books, videos, CDs, DVDs and similar materials. A library may have computers and/or meeting rooms available for public use.

Lot A parcel of land with frontage on or legal access to a public or private street or road, whether or not occupied by a building or structure, which is in one ownership.

Lot, Corner A lot located at the intersection of, and abutting upon, two or more streets.

Lot Coverage That percentage of the lot area covered by the building area.

Lot Line The property line bounding a lot.

Lot Line, front The property line dividing a lot from the right of way of a street.

Lot Line, rear The property line opposite the front lot line.

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

Lot of Record Any lot which individually or as a part of a subdivision has been officially recorded in the office of the Clerk of Cattaraugus County.

Lot Width The minimum distance between the side property lines.

Lumber and Building Material Sales Establishments A commercial establishment in which lumber, and other building, construction and home improvement materials are offered for retail sale. Outdoor storage of goods may occur.

Manufactured Home A factory-built home, originally transportable, designed to be used as a year-round single-family dwelling that is manufactured according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 United States Code Sec. 5401). A manufactured home is sometimes referred to as a "HUD Code home." The term "Manufactured Home" does not include a mobile home or recreational vehicle.

Manufactured Home Park A lot containing two or more manufactured homes.

Manufactured Home Space An area within a Manufactured Home Park that is reserved for the placement of one Manufactured or mobile home.

Miniature Golf A commercial recreational facility, which provides a novelty version of golf played with a putter and a golf ball on a miniature course, typically with artificial playing surfaces and including obstacles such as bridges and tunnels.

Mineral Any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this Law, peat and topsoil shall be considered to be minerals.

Mining Extraction of gravel, sand, minerals, peat and/or topsoil for sale or use off site. The moving of topsoil, sand and/or gravel from one part of a property to another part of the same property in the same ownership shall not be construed to be mining. Site work

incidental to another approved land use shall not be construed to be mining. Mining is further defined as Commercial Mining and Incidental Mining.

Commercial Mining: The extraction of more than 1000 tons or 750 cubic yards of minerals, whichever is less, in any consecutive 12 month period.

Incidental Mining: The extraction of less than 1000 tons or 750 cubic yards of minerals, whichever is less, in any consecutive 12 month period.

Mobile Home A transportable, factory-built home, designed to be used as a year-round, single family dwelling, built prior to June 15, 1976, the effective date of the Federal Manufactured Housing Construction and Safety Standards Act of 1974. "Mobile home" does not include a recreational vehicle.

Modular Home Factory-built housing that is certified as meeting the New York State Building Code. A modular home is constructed on-site from components that are substantially made and assembled in a factory and that are delivered to a building site, where they are assembled and installed on a permanent foundation.

Motel See "Hotel."

Museum An institution devoted to the procurement, care, study and display of objects of artistic, historical and/or scientific interest. A museum may be for profit or not for profit.

Non-Conforming Structure Any structure, legally existing at the time of enactment of this law, which does not meet the regulations for size or location on a lot for the district in which such structure is located.

Non-Conforming Lot Any lot, legally existing at the time of enactment of this law, where the area, frontage and/or dimensions do not conform to the provisions of this law.

Non-Conforming Use A use of land or a structure, legally existing at the time of enactment of this law, which does not conform to the regulations of the district in which it is located, but which complied with applicable regulations at the time the use was established.

Nursing home A facility for the aged or for the chronically or incurably sick, in which residents are fed, lodged, and provided with health care, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick and/or injured.

Office A room or group of rooms used for conducting the affairs of a business, profession, service industry or government.

Office Building A building used primarily for offices that may include ancillary services for office workers, such as a restaurant, coffee shop, or newspaper stand.

Office, Business An office for such activities as real estate agencies, advertising agencies, insurance agencies, travel agencies and ticket sales, chambers of commerce, abstract and title agencies or insurance companies, stockbrokers and similar services. Retail or wholesale goods are not shown on the premises to customers.

Office, Medical A building or structure where two or more members of the medical profession, physicians, dentists, chiropractors, osteopaths, and/or occupational or physical therapists, provide diagnosis and treatment to the general public without overnight accommodation. A medical clinic may include such uses as reception areas, offices, consultation rooms, x-ray facilities, minor operating rooms and/or a pharmacy, providing that all such uses have access only from the interior of the building.

Office, Professional The use of a building, or part thereof, for offices by one or more members of a recognized profession, including a doctor, physician, surgeon, dentist, or such other persons licensed by the state of New York to practice a healing art; lawyer; accountant; architect, planner, or engineer; or similar professions.

Office park A development, which has been planned, developed and operated as an integrated facility for a number of separate office buildings and supporting ancillary uses, such as parking lots.

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

Parking Lot An open area of land, other than a street, used for the temporary parking of two or more motor vehicles and available for public use whether free, for compensation, or as an accommodation for clients, customers, employees and/or residents, but does not include the storing of impounded or wrecked vehicles.

Personal Service Establishment A business where professional or personal services are provided for gain and where the retail sale of goods, wares, merchandise, articles or things is only accessory to the provision of such services, including but not limited to the following: barber shops, beauty shops, tailor shops, dry-cleaning drop-off/ pick-up establishments (but not where the dry cleaning occurs), and jewelry and shoe repair shops.

Pharmacy See “Drug store.”

Photography Studio Premises used primarily for portrait and commercial photography, which may include developing and processing of film, sale of film and photographic equipment, and repair or maintenance of photographic equipment.

Place of worship A building, such as a church, chapel, temple, synagogue, or mosque, in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

Principal building A building in which the primary use of the lot on which the building is located is conducted.

Principal use The primary purpose for which a lot is used.

Print shop See copy shop

Private School See “School, private.”

Private Viewing Booth Any booth or cubical that is designed or used to hold or seat patrons and that is used for presenting live shows, motion pictures or for viewing publications by any photographic, electronic, magnetic, digital or other means or media, for observation by five or fewer persons at one time or any booth containing 150 square feet or less.

Planned Unit Development (PUD) A site upon which residential, commercial recreational, commercial or other land uses or any combination thereof may be authorized in a flexible manner so as to achieve the goals of the Town of Great Valley Comprehensive Plan. See Article 10.

Planned Unit Development District An independent, freestanding zoning district, wherein the zoning regulations need not be uniform for each class or type of land use, but where the use of land shall be in accordance with a preliminary planned unit development plan approved by the Town Board. See Article 10.

Public Use Public parks; public schools; and administrative, cultural and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

Public Utility Any person, firm, corporation or municipal department duly authorized under public regulation to furnish to the public electricity, gas, steam, telephone, fiber-optics, transportation, water or sewer.

Public Utility Facility A facility, other than a telecommunication tower or telecommunication antenna, for the provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewerage collection, or other such service to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms, and call boxes and other similar equipment, but shall not include office or administration buildings. For purposes of this zoning law, telecommunication towers or telecommunication antennas, defined separately in this law, shall not be

governed by the zoning regulations that apply to the broader definition of public utility facilities, but shall be governed by the specific telecommunications facilities regulations of this law.

Recreation Vehicle (RV) A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or towed by another vehicle. A recreation vehicle is not designed or intended for use as a permanent dwelling. "Recreation vehicle" includes vehicles such as trailers, campers, travel trailers and boats. A recreation vehicle is not a manufactured home or a mobile home.

Repair services, Small motor Repair of motors and engines on such equipment as lawnmowers, snowblowers, and similar equipment.

Restaurant A commercial establishment which is primarily engaged in serving food and beverages which are consumed on its premises by customers seated at tables and/or counters either inside or outside the building, and, as an accessory use, may be engaged in providing customers with take-out service of food and beverages for off-site consumption.

Restaurant, Drive-in A restaurant in which most customers order and are served their food at a counter or in a motor vehicle at a drive up window, where the food is served in packages prepared to leave the premises; or customers may take the food to an on site table or counter.

Retail Establishment A building in which merchandise is offered for sale at retail, including storage of limited quantities of such merchandise, sufficient only to supply such store.

Riding Stable See "Stable, Riding."

Sawmill An industrial facility that has as its principal use, the sawing or planning of logs or trees into rough slabs.

School, Private A private facility that provides a curriculum of elementary and/or secondary academic instruction, including pre-kindergarten, kindergarten, elementary school, junior high school, middle school, and/or high school.

Self-storage facility A building or buildings used for the storage of household goods and materials, in which individuals rent self-contained storage units that are exclusively available to the individual renter.

Setback Line The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

Setback line, Front The minimum allowable distance from the street right-of-way line to the closest point of a building or structure.

Setback line, Side The minimum allowable distance from the side lot lines to the closest point of a building or structure. The side yard setback shall extend from the front yard setback to the rear yard setback, or from the front right-of-way line to the rear property line in cases where a front and/or rear yard setback are not required.

Setback line, Rear The minimum allowable distance from the rear property line to the closest point of a building or structure.

Sign Any structure, display, device or representation which is designed or used to advertise or call attention to any thing, person, business, realty subdivision or development, activity or place and is visible from a highway, street or other public right-of-way. This definition is not to be restricted to traditional and familiar forms but will include any new and evolving technologies such as, but not limited to, laser lights.

This definition shall not include holiday decorations; the noncommercial use of any flag, emblem, insignia or other display of any nation or political subdivision; traffic, safety or similar regulatory devices; scoreboards; or customary displays of merchandise or objects and materials placed behind a store window.

Particular types of signs are defined as follows:

Agricultural Sign: Any sign necessarily connected with an agricultural activity, such as the name of a farm, signs identifying specific plantings or seed types, or signs identifying a farm cooperative or an honor, such as “farm of distinction.” The sign shall be located on the premises that it identifies.

Community Event Sign A sign advertising an event of community interest, which is hung over or located on public property.

Directional Sign: A sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians on a site.

Freestanding Sign Any sign permanently anchored to the ground, which stands alone on its own foundation and structural supports and which is detached from any supporting elements of any building.

Illuminated Sign Any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign.

Message Board A portion of a sign, on which the visual message may be manually changed. A sign that shows only the time and temperature shall not be construed to be a message board.

Off-premises Sign A sign advertising a use, facility, service, good or product that is not located, sold or manufactured on the same premises as the sign.

On-premises Sign A sign advertising a use, facility, service, good or product that is located, sold or manufactured on the same premises as the sign.

Projecting Sign A sign which is attached to the building wall or structure and which extends horizontally more than fifteen (15) inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.

Roof Sign A sign erected on a roof or a sign that projects above the highest point of the roofline, parapet or fascia of the building.

Snipe Sign An off-premises sign that is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or other objects. Signs placed by a public agency for a public purpose shall not be construed to be snipe signs.

Vehicle Sign A sign that is attached to or painted on a vehicle that is parked on, near, or adjacent to any property, the principal purpose of which is to attract attention to a product sold or business located on the property. A vehicle used for business purposes, and which is driven on a regular basis, that contains a business logo or sign shall not be construed to be a "vehicle sign."

Temporary Sign A sign intended to be displayed for a limited time period.

Wall Sign A sign which is painted on or attached to the outside wall of a building, with the face of the sign in the plane parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall. A wall sign has only one sign face.

Window Sign A sign, visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

Sign Area The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign face, including any framing, trim or molding. The structure supporting a sign (sign structure) shall be excluded unless the structure is designed in a way to form an integral background for the display. Unless otherwise stated in this zoning law, each face of a double faced sign can be constructed to the maximum size for sign area.

Sign Face The display surface used for the message of a sign.

Skate Board Park A facility, open to the public whether for free or for a fee, that is designed for use by persons riding skateboards, in-line skates or roller skates.

Ski Area An area developed for snow skiing with trails and lifts, which may include ski rentals and sales, instruction, and similar support services.

Small Motor Repair Services See “Repair services, small motor.”

Snow Tubing Park A commercial facility in which patrons slide down hills on rubber tubes and/or similar devices.

Spa A commercial establishment which employs professional, licensed therapists whose services include massage and body or facial treatments. Treatments may include body packs and wraps, exfoliation, cellulite and heat treatments, body toning, waxing, aromatherapy, cleansing facials, and electrolysis. Hydrotherapy and steam and sauna facilities, nutrition and weight management, spa cuisine and exercise facilities and instruction may be provided. A spa does not include overnight sleeping facilities. See also health club.

Stable, boarding A commercial facility where three or more horses and ponies, which are not owned by the owners of the establishment, are kept, sheltered, and fed, for a fee.

Stable, riding A commercial facility where three or more horses and ponies are available for hire to the general public. A Riding Stable may also provide lessons in riding and/or jumping; and/or the handling, training and care of horses. Horses and ponies may also be trained.

Street A public or private right-of-way which affords the principal means of access to abutting properties.

Street Line The line between the street right-of-way and abutting property.

Structure Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Supergraphics: Any mosaic, mural, painting or graphic art or combination thereof which is professionally applied to a building, directly on the outer wall. Supergraphics may or may not contain a commercial message.

Tanning studio Any business that uses artificial lighting systems to produce a tan on an individual body. This use specifically excludes spas, health clubs, and any exercise equipment.

Tattoo Parlor An establishment whose principal business activity is the practice of placing designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of needles or other instruments designed to contact or puncture the skin.

Telecommunication Tower A structure on which one or more antenna(s) will be located, that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, but excluding those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

Telecommunication Antenna A system of electrical conductors that transmit or receive radio frequency waves.

Telecommunications Facility Any or all of the physical elements of the central cell facility that contains all the receivers, transmitters, and other apparatus needed for cellular or PCS (Personal Communication Services) operation (also known as base transceiver station or BTS).

Theater A building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances.

Time and Temperature Unit: A sign or portion of a sign displaying only current time and temperature in an electronic or digital fashion.

Townhouse A type of single family dwelling where one or more units are attached by at least one common wall.

Trade school See "Business school."

Use The purpose for which land or a structure thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

Video rental establishment A commercial establishment primarily engaged in the retail rental or lease of video tapes, films, CD-ROMs, DVDs, or other electronic media. Sales of film, video, CD-ROMs, DVDs is permitted as an accessory use.

Viewing booth, private See "Private Viewing Booth."

Warehouse A building used primarily for the for-profit storage of goods and materials.

Water Park A recreational facility, which may be outdoors or indoors or both, which has as its primary attraction various water features such as pools and slides, for use by the general public for a fee.

Wholesale Facility Place of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wind Energy Conversion System (WECS): Any mechanism designed for the purpose of converting wind energy into electrical energy. A WECS may include one or more wind turbines, towers, associated control or conversion electronics, transformers, and/or other maintenance or control facilities or other component used in the system. A WECS is further defined as either a Utility-scale Wind Energy Conversion System or a small-scale Wind Energy Conversion System.

Utility-Scale Wind Energy Conversion System: A wind energy conversion system that is intended solely to generate electrical power for sale to the power grid.

Small-Scale Wind Energy Conversion System: A wind energy conversion system that is incidental and subordinate to another use on the same parcel and that supplies electrical power solely for on-site use, except that when a parcel on which a small-scale WECS is installed also receives electrical power supplied by a utility company, excess electrical power generated by the small-scale WECS and not presently needed for on-site use may be used by the utility company in exchange for a reduction in the cost of electrical power supplied by that company to the parcel for on-site use, as long as no net revenue is produced by such excess electrical power.

Yard Sale The sale of personal property belonging to the occupants of the dwelling unit on whose premises the sale is conducted. See Article 4.

Zero Lot Line Development A type of residential development in which the required side yard setback is reduced on one side (usually to zero, which results in the placement of one wall of the building on the side lot line) and the side yard setback on the other side is increased, so that the sum of the side yards is equal to the sum of the requirement.

Zoning Officer The official, appointed by the Town Board, who is responsible for the administration and enforcement of this zoning law.

Zoning Permit A permit issued by the Zoning Officer, prior to or concurrent with the issuance of a building permit, which certifies that a proposed structure or use meets all the regulations of this zoning ordinance.

ARTICLE 3 DISTRICTS AND REGULATIONS

Section 3.1 Zoning Districts

A. Agricultural Residential (AR) Zoning District

(1) Purpose

The primary purpose of the Agricultural Residential (AR) Zoning District is to promote agriculture and forestry. A substantial amount of the land in this district is located on prime agricultural soils and/or is land that participates in the NYS Agricultural District program, and one of the purposes and intent of this Zoning Law is to promote and preserve agricultural and forestry resources within the Town of Great Valley.

Another purpose of this District is to provide an opportunity for residential development at a range of densities, including large lots. In order to protect agriculture and forestry, cluster subdivisions are encouraged.

An additional purpose of this District is to provide an opportunity for commercial recreation development and for low intensity commercial development that is compatible with agriculture, recreation, and residential land uses. Agricultural support services would be especially suitable in this District.

(2) Land Uses

- (a) Principal land uses in the Agricultural Residential (AR) Zoning District shall be limited to those uses shown on the Land Use Table as either permitted or special permitted uses within this zoning district.
- (b) Accessory land uses and accessory structures, either shown as permitted on the Land Use Table or as defined in Article 2 of this Zoning Law, are permitted.
- (c) All other land uses are prohibited in this zoning district.

(3) Dimensional Regulations

Applicable dimensional regulations are contained in Table 3-2 and in Section 3.2 of this Zoning Law.

B. Hamlet Residential-Commercial (HRC) Zoning District

(1) Purpose

The purpose of the Hamlet Residential-Commercial (HRC) District is to recognize and promote the mixture of residential and commercial land uses that have historically occurred in the two hamlets. This district is intended to promote the continuation of a mixture of residential and commercial land uses. Commercial uses are intended to primarily be small scale retail and service establishments that serve both residents and travelers. Large-scale regional serving retail facilities are not appropriate for this zoning district.

(2) Land Uses

- (a) Allowable land uses in the Hamlet Residential-Commercial (HRC) Zoning District shall be limited to those uses shown on the Land Use Table as either permitted or special permitted uses within this zoning district.
- (b) Accessory land uses and accessory structures, either shown as permitted on the Land Use Table or as defined in Article 2 of this Zoning Law, are permitted.
- (c) All other land uses are prohibited in this zoning district.

(3) Dimensional Regulations

Applicable dimensional regulations are contained in Table 3-2 and in Section 3.2 of this Zoning Law.

C. Commercial-Industrial (C-I) Zoning District

(1) Purpose

The purpose of the Commercial-Industrial (C-I) Zoning District is to provide an area for resident- and tourist-serving retail and service establishments. Large-scale regional serving retail facilities are not appropriate for this zoning district.

An additional purpose of this zoning district is to provide an opportunity for commercial facilities and offices, and for light industrial uses that would not have significant adverse impacts on the residents of the Town.

(2) Land Uses

- (a) Allowable land uses in the Commercial-Industrial (C-I) Zoning District shall be limited to those uses shown on the Land Use Table as either permitted or special permitted uses within this zoning district.

(b) Accessory land uses and accessory structures, either shown as permitted on the Land Use Table or as defined in Article 2 of this Zoning Law, are permitted.

(c) All other land uses are prohibited in this zoning district.

(3) Dimensional Regulations

Applicable dimensional regulations are contained in Table 3-2 and in Section 3.2 of this Zoning Law.

(4) Performance Standards

All heavy commercial or light industrial use, which may otherwise be permitted by the Land Use Tables, shall comply with the performance standards contained in Article 4 of this Zoning Law. Failure to comply with these provisions shall be evidence that the proposed heavy commercial or light industrial use is not an appropriate use in this zoning district.

D. Rural Residential (RR) Zoning District

(1) Purpose

The purpose of the Rural Residential Zoning District is to provide an opportunity for single family residential development, on a variety of lot sizes. An additional purpose of this zoning district is to allow Agriculture and Forestry.

(2) Land Uses

(a) Allowable land uses in the Rural Residential (RR) Zoning District shall be limited to those uses shown on the Land Use Table as either permitted or special permitted uses within this zoning district.

(b) Accessory land uses and accessory structures, either shown as permitted on the Land Use Table or as defined in Article 2 of this Zoning Law, are permitted.

(c) All other land uses are prohibited in this zoning district.

(3) Dimensional Regulations

Applicable dimensional regulations are contained in Table 3-2 and in Section 3.2 of this Zoning Law.

E. Floodplain Overlay (FO) Zoning District

(1) Purpose

The purpose of the Floodplain Overlay (FO) District is to protect the health, safety and welfare of the residents of the Town of Great Valley and to minimize public and private losses from hazards due to periodic or intermittent flooding. These purposes shall include the protection of persons and property, the preservation of water quality and the minimizing of expenditures for relief, insurance and flood control projects. This does not imply that areas outside of the floodplain overlay district or uses permitted within the floodplain overlay district will be free from flooding or flood damage.

(2) Applicability

The Floodplain Overlay District shall include all areas within the Town of Great Valley that are identified as areas of special flood hazard by the Federal Emergency Management Agency (FEMA). The areas of special flood hazard are identified and defined on the following documents prepared by FEMA:

- a. Flood insurance study (FIS), January 1978
- b. Flood Boundary and Floodway Map
Community panel number 360076 0001-0045 (index), 360076 0015B,
360076 0020B and 360076 0025B
Effective date: July 17, 1978
- c. Flood Insurance Rate Map
Community panel number 360076 0001-0045 (index), 360076 0015B,
360076 0020B and 360076 0025B
Effective date: July 17, 1978

(3) Land Uses

Permitted uses, special permitted uses and accessory uses shall be those designated in the underlying zoning district. However, such uses shall be subject to the special restrictions contained in Local Law 1-1987, entitled "A Local Law to enact flood damage prevention."

(4) Dimensional Regulations

All permitted uses, special permitted uses and permitted accessory uses shall conform to the yard, area and other dimensional regulations that are specified in Section 3.2 of this zoning law for the underlying zoning district. In addition, land uses shall conform to any special dimensional regulations contained in Local Law 1-1987, entitled "A Local Law to enact flood damage prevention."

F. High Density (HD) District

(4) Purpose

The intent of the High Density District is to offer an opportunity for more intense development, provided that adequate sewerage disposal systems and adequate water supply for both domestic and fire protection are available to serve such development. An additional purpose is to encourage mixed use developments that contain a range of residential and commercial land uses at a density higher than that permitted in other locations in Great Valley, provided that such development otherwise meets the standards of this Law and other applicable regulations, such as SEQRA regulations.

One purpose of the High Density (HD) Zoning District is provide an opportunity for more dense residential development. Townhouses and other forms of attached single family development and multiple family residences are allowable. Clustering of residential development, where minimum lot size is reduced in order to provide increased open space and protect natural resources, is encouraged in this District. An additional purpose of this district is to provide an opportunity for intensive commercial recreation development. The district also provides for other commercial development, such as hotels, motels, and restaurants, which are compatible with higher density residential development and commercial recreation development. The HD District allows mixed use developments that contain land uses that are individually allowable within the District and that meet the density standards and setbacks within the district.

As stated in the Town of Great Valley Comprehensive Plan and shown on the Comprehensive Plan Map, the area that is deemed suitable for the type of intensive development envisioned for this zoning district is located along Route 219, in the northern part of the Town of Great Valley. This district includes the Holiday Valley Resort, SnoPine Village, and land in the vicinity of these uses. However, development at the intensity envisioned for this zoning district is dependent upon the provision of adequate water supply and sewerage disposal systems. Therefore, parcels should be rezoned into the High Density (HD) District only when municipal water and sewer service is available in this area, or when a developer will provide privately owned systems that are adequate to serve the proposed development and that comply with the recommendations for sanitary sewerage collection and treatment facilities and water supply systems in the Comprehensive Plan.

(5) Land Uses

- (d) Allowable land uses in the High Density (HD) Zoning District shall be limited to those uses shown on the Land Use Table as either permitted or special permitted uses within this zoning district.
- (e) Accessory land uses and accessory structures, either shown as permitted on the Land Use Table or as defined in Article 2 of this Zoning Law, are permitted.

(f) All other land uses are prohibited in this zoning district.

(6) Dimensional Regulations

Applicable dimensional regulations are contained in Table 3-2 and in Section 3.2 of this Zoning Law.

G. Table 3-1 -- Land Use Table

The following pages contain Table 3-1, Land Use Table. This table is hereby declared to be an integral part of this zoning Law.

This Table contains all principal permitted and special permitted land uses that are allowed in the Town of Great Valley. Some special types of accessory uses are listed in the Land Use Table. Other accessory land uses, such as private garages, that meet the standards for an accessory use as defined in Article 2 of this Zoning Law may also be allowed.

On the Land Use Table, the letter “**P**” indicates a permitted use, the letters “**SP**” indicate that a special use permit is required from the Planning Board, the letters “**P,S**” indicate that a use is permitted, subject, however, to obtaining site plan review and approval from the Planning Board, and the letters “**NP**” indicate that the use is not permitted in that zoning district.

In addition to uses designated as “**P,S**” on the land use table, other types of development may also be subject to Site Plan Review, as required in Article 9 of this Zoning Law. The absence of a “**P,S**” designation does not indicate that Site Plan Review is not required.

Any land use category which is not expressly permitted in the Land Use Table shall be deemed to be not permitted within the Town of Great Valley. In the event that any person believes that a use is included within one of the permitted or special permitted uses listed in the Land Use Tables and has been denied a Zoning Permit, that person may apply to the Zoning Board of Appeals for an interpretation of the Zoning Law, who will make the determination of whether or not the use is a permitted or special permitted use. Oil and gas production, where permitted by New York State, shall not be regulated by the regulations of this zoning law.

**Table 3-1
Land Use Table**

Use	AR	HRC	C-I	RR	HD
<i>Residential</i>					
Single family Dwelling	P	P	P	P	P
Two family Dwelling	P	P	P	P	P
Townhouse; attached single family	NP	NP	NP	NP	SP
Multiple family Dwelling	SP	SP	SP	NP	SP
Manufactured home parks	SP	SP	SP	NP	NP
Manufactured homes on Individual lots	P	P	P	NP	NP
Accessory Apartments	P	P	P	P,S	NP
Farmworker housing	P,S	NP	NP	NP	NP
<i>Agriculture</i>					
Agriculture	P	P	P	P	P
Forestry	P	P	P	P	P
Agricultural processing	SP	NP	NP	NP	NP
Agricultural Sales and Services	SP	SP	SP	NP	NP
Feed and Grain Storage Facility	P,S	SP	SP	NP	NP
Feed Store	P,S	SP	SP	NP	NP
Farm stand	P	P	P	P	NP
Farmer's market	P	P	P	P	SP
Greenhouse, Wholesale	P	P	P	P	NP
Greenhouse, Retail	P	P	P	NP	SP
Kennels	SP	NP	NP	NP	NP
Animal boarding establishment	SP	NP	NP	NP	NP
Animal grooming establishment	P	P	P	NP	NP
Animal Hospital	P,S	SP	SP	NP	NP
Riding/boarding stables	SP	NP	NP	NP	NP

Use	AR	HRC	C-I	RR	HD
<i>Commercial</i>					
Hotel/motel/inn	SP	SP	SP	NP	SP
Bed & Breakfast Est.	P,S	P,S	P,S	SP	SP
Arts & crafts studios	SP	SP	SP	NP	SP
Offices: professional, Medical, business Office buildings	SP	SP	SP	NP	SP
Office park	SP	NP	SP	NP	SP
Lumber and Building Material Sales Establishments	SP	SP	SP	NP	NP
Contractor's yard	SP	SP	SP	NP	NP
Laundromat	NP	SP	SP	NP	NP
Facilities with drive-up/ Drive-through Window	NP	SP	SP	NP	NP
Health club/spa	P,S	P,S	P,S	NP	SP
Funeral home	NP	SP	SP	NP	NP
Parking lots (as principal use of parcel)	NP	SP	SP	NP	NP
Nursing home	SP	SP	SP	NP	NP
Gasoline station	NP	SP	SP	NP	NP
Gasoline station with Mini mart	NP	SP	SP	NP	NP
Automobile and vehicle repair	SP	SP	SP	NP	NP
Automobile body shop	SP	SP	SP	NP	NP
Automobile and vehicle sales est.	NP	SP	SP	NP	NP
Car wash	NP	SP	SP	NP	NP
Retail Establishments, such as Clothing stores, grocery stores, Pharmacies and drug stores, And similar establishments	NP	P,S	P,S	NP	SP
Restaurants, bars, and Brew pubs	NP	SP	SP	NP	SP
Restaurants, Drive-in	NP	NP	SP	NP	NP
Tanning studio	NP	P,S	P,S	NP	SP
Tattoo Parlor/body piercing est.	NP	SP	SP	NP	NP
Trade/business school	SP	SP	SP	NP	NP

Use	AR	HRC	C-I	RR	HD
<i>Commercial (continued)</i>					
Personal service establishments, Including Jewelry repair, dry cleaning pick up, tailors, beauty shops, barber shops, and similar establishments	NP	P,S	P,S	NP	SP
Business support services Including photocopying and printing, advertising and mailing services, business equipment rental or leasing, print shops and similar services	SP	P,S	P,S	NP	SP
Photography studio	P,S	P,S	P,S	NP	SP
Small motor repair services	P,S	P,S	P,S	NP	NP
Video rental establishment	NP	P,S	P,S	NP	SP
ATM (freestanding)	NP	P	P	NP	SP
Banks and financial institutions	NP	P,S	P,S	NP	SP
Theaters (movie/live)	NP	SP	SP	NP	SP
Golf courses, Water parks Ski areas, Snow tubing parks, but not ATV parks	SP	NP	NP	NP	SP
Commercial Recreation, establishments, including Miniature golf, Tennis courts, Golf driving ranges Public Swimming pools Ice/roller skating arenas, Bowling alleys, Skate board park and similar establishments, but not ATV Parks	SP	SP	SP	NP	SP
Campgrounds	SP	NP	NP	NP	NP
Gun/hunting clubs	SP	NP	NP	NP	NP
Home Based businesses, minor	P	P	P	P	P
Home Based businesses, major	SP	SP	SP	SP	SP
Food Processing Establishment	SP	SP	SP	NP	NP

Use	AR	HRC	C-I	RR	HD
<i>Industrial</i>					
Self-storage facilities	SP	SP	SP	NP	NP
Commercial Mining, ¹					
Sand and Gravel extraction					
Removal of Topsoil for Sale	NP	NP	NP	NP	NP
Incidental Mining					
Sand and Gravel extraction					
Removal of Topsoil for Sale	SP	SP	SP	NP	NP
Sawmill	SP	NP	NP	NP	NP
Warehouse	SP	SP	SP	NP	NP
Wholesale facility	SP	SP	SP	NP	NP
<p>¹ Pursuant to the Comprehensive Plan, mines that have received Mined Land Use Permits from NYS Department of Environmental Conservation prior to the effective date of this Zoning Law shall be considered to be a legal, non-conforming (grandfathered) use, regardless of whether or not mining operations have actually been started on the parcel. Only the approved Life of Mine limits shall be construed to be grandfathered.</p>					
<i>Miscellaneous</i>					
Adult uses	SP	NP	NP	NP	NP
Cemetery	P	P	P	NP	NP
Places of worship	P	P	P	P	P
Telecommunications					
Facilities	SP	SP	SP	NP	SP
Public Utility facilities	SP	SP	SP	SP	SP
Public Uses	P	P	P	P	P
Airstrip/landing strip	SP	SP	SP	NP	NP
Cultural facilities, including					
Museums, libraries,					
and similar Facilities	SP	SP	SP	NP	SP
Day care child/adult	SP	SP	SP	NP	SP
Private schools	SP	SP	SP	NP	NP
Club/fraternal organization	SP	SP	SP	NP	NP
Small-scale Wind Energy					
Conversions Systems (WECS)	SP	NP	NP	NP	NP
Commercial-scale Wind Energy					
Conversion Systems (WECS)	NP	NP	NP	NP	NP
Junk yards	NP	NP	NP	NP	NP

Section 3.2 Dimensional Regulations

A. Table 3-2 -- Dimensional Regulations

Table 3-2 shows the dimensional regulations for each zoning district. This table is hereby declared to be an integral part of this zoning Law.

**Table 3-2
Dimensional Regulations**

	AR	HRC	C-I	RR	HD
Minimum Lot Size ^{1, 2, 5}	2 acres	1 acre	1 acre	1 acre	15,000 sq. ft. ⁴
Minimum Lot Width ⁵	150 feet	80 feet	80 feet	100 feet	80 ft.
Building Setbacks ³					
Front	40 ft.	25 ft.	30 ft.	30 ft.	25 ft.
Side	30 ft.	15 ft.	15 ft.	20 ft.	15 ft.
Rear	40 ft.	20 ft.	20 ft.	30 ft.	20 ft.
Maximum Lot Coverage	25 %	60%	60 %	10%	Attached dwellings: 40% Detached dwellings 20% Commercial uses : 60%
Maximum Height	35 feet	35 feet	35 feet	35 feet	35 feet

¹ For parcels that are served by private well and septic system, the Cattaraugus County Health Department may require a higher minimum lot size.

² If a property line goes to the middle of a road, the calculation of lot area shall not include any part of the lot that is within the right-of-way.

³ Building setbacks are measured from the property line, or from the right-of-way line, if the property line goes to the middle of a road. Building setbacks apply to all primary and accessory buildings.

⁴ This minimum lot size applies to single family detached homes, commercial uses such as hotels, restaurants, offices, etc. and other allowable land uses. For townhouse and other attached residential uses, refer to Section 4.11, Townhouse Development.

⁵**For lots on slopes, please refer to the slope-density provisions of Section 3.2C of this Zoning Law.**

B. Exceptions to Height Limit

The following buildings, structures and architectural features may exceed the maximum height provisions of this Zoning Law, to the extent provided below.

- (1) Chimneys, exhaust stacks, ventilators, antennas, skylights, tanks, bulkheads, solar panels and similar features may exceed the height limit, provided that they do not extend more than four feet above the highest ridge of the building with which they are associated.
- (2) Domes, towers, bell towers, cupolas or spires which are an integral part of churches or other houses of worship shall be exempt from the height limitations of this Law, provided that such features shall in no way be used for independent habitable space, as defined by the NYS Uniform Fire Prevention and Building Code.
- (3) Telecommunications towers, broadcasting and microwave transmitting and relay towers and electric transmission line towers shall be exempt from the height limitations of this Law.
- (4) Ski lift towers and towers for snowmaking equipment shall be exempt from the height limitations of this Law.
- (5) Flagpoles shall be exempt from the height limitations of this Law.
- (6) Agricultural buildings, such as barns, silos, stables and riding arenas shall be exempt from the height limitations of this Law.
- (7) A small-scale Wind Energy Conversion System (WECS) may exceed the height limitations of this Law, up to a maximum height of 150 feet.

C. Exceptions to Minimum Lot Size**(1) Purpose**

The purpose of this section is to implement policies in the Town of Great Valley Comprehensive Plan regarding hillside development. As discussed in the Comprehensive Plan, development on hillsides is more difficult and intrusive than development on less steep slopes. The potential for erosion increases in proportion to the percent of grade of the hillside. Larger areas of cut and fill and higher retaining walls may be necessary to support development on slopes, which may have a negative aesthetic impact on the community. Steeper road grades make adequate emergency vehicle access more difficult. For all these reasons, policies in the Comprehensive Plan policy discourage intensive development on hillsides and especially discourage any development on slopes of greater than 25%.

A reduction in the potential hazards from development on steeper slopes can be achieved by a decrease in density on steeper slopes and by clustering of development. Clustering of development is allowed through Sub-section 3.2D and Article 10 of this Zoning Law. This sub-section provides for an increase in minimum lot size as the slope of the lot increases.

(2) **Applicability**

These provisions shall apply to all applications for Major Subdivisions and all applications for Planned Unit Developments.

(3) **Calculation of Average Lot Slope**

The average slope of the lot(s) to be subdivided and/or developed shall be determined according to the following formula:

$$\text{Average slope} = \frac{0.0023 \times I \times L}{A}$$

Where:

0.0023 = is a factor for the conversion of square feet into acres

I = contour interval, in feet, shown on the topographical map of a parcel.

L = combined length, in feet, across all contour lines shown on the topographical map

A = area of the parcel in acres

Calculations of average slope shall be based upon accurate topographic surveys using a contour interval no greater than ten feet and a horizontal map scale of 1":200' or larger.

For larger lots with a variation in topography, the slope may be calculated for segments of the lot, instead of the average slope of the entire lot, provided that the topography of the entire lot is included in the calculations.

(4) **Slope-density provisions**

The maximum density allowed on a lot shall be determined using the following table. The minimum lot sizes contained in Table 3-2 shall be increased, as shown in Table A, depending upon the slope of the lot.

Table A
Minimum Lot Size and Minimum Lot Width

Percent of Slope	Minimum lot size *	Minimum Lot Width
0 - 9.99 percent	All Districts: As stated in Table 3.2	All Districts: As stated in Table 3.2
10.0 - 14.99 percent	All Districts: As stated in Table 3.2	AR: As stated in Table 3.2 HRC, C-1, & RR: As stated in Table 3.2 HD: 100 ft.
15.0 - 19.99 percent	AR: As stated in Table 3.2 HRC, C-1, & RR: 2 acres HD: 20,000 sq. ft.	AR: As stated in Table 3.2 HRC, C-1, & RR: 100 ft. HD: 120 ft.
20.0 - 24.99 percent	AR: 3 acres HRC, C-1, & RR: 2 acres HD: 22,500 sq. ft.	AR: 200 ft. HRC, C-1, & RR: 120 ft. HD: 140 ft.
25.0 - 49.99 percent	All Districts: 10 acres	All Districts: 250 ft.
50 percent or greater	All Districts: 40 acres	All Districts: 300 ft.

* This minimum lot size applies to all types of development, except attached single family dwellings. For maximum allowable density for townhouses and other attached single dwellings, see Section 4.11, Townhouse Development.

(5) Lots With a Slope of 25 Percent or Greater

For a lot where the average slope is 25 percent or greater, the maximum number of dwelling units and/or the maximum intensity of development shall be calculated according to Table A. However, residences and other types of development shall be located on parts of the lot where the average slope is less than 25 percent, to the maximum extent feasible, as determined by the Planning Board. For such lots, this may result in a clustered development, with reduced minimum lot sizes. Any land which is left vacant because the development potential of that portion of a lot has been transferred to another part of that lot shall be placed in a deeded, permanent open space easement. The provisions for this easement shall be determined to be adequate by the Town Attorney.

Construction of any public or private roads on slopes in excess of 25 percent is discouraged. However, construction of a road on land with a slope of 25 percent or greater is allowable, if such road is the only feasible option to reach a developable area with an average slope of less than 25 percent.

D. Cluster Subdivisions

Notwithstanding the dimensional regulations contained in Table 3-2 of this local law, pursuant to NYS Town Law Section 278 the Town of Great Valley Planning Board

is hereby authorized to approve cluster subdivisions in all zoning districts, as part of its review of subdivision applications pursuant to the Town's Land Division Regulations.

As required by NYS Town Law, a cluster subdivision shall not result in a permitted number of building lots or dwelling units that, in the Planning Board's judgment, would exceed the number that would be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning law. In order to demonstrate that the density of a cluster subdivision does not exceed that of a conventional subdivision layout, the applicant shall submit a sketch plan that shows the density that could be obtained using a conventional subdivision layout. The sketch plan shall be provided as one component of the subdivision application, in addition to the draft plat that shows the proposed cluster subdivision layout.

If the proposed cluster subdivision falls within two or more contiguous zoning districts, the Planning Board may approve a cluster subdivision representing the cumulative density of the entire property. The allowable density for that portion of the property in each zoning district shall be calculated independently, and then added together to obtain the total number of allowable units. The Planning Board may authorize construction to take place in all or any portion of the zoning districts.

In reviewing an application for a cluster subdivision, the Planning Board may allow a reduction in the minimum lot size and/or minimum lot width and a commensurate reduction in building setbacks.

That portion of the lot that is not proposed for development shall be maintained as permanent open space. As a condition of approval, the Planning Board may establish conditions on the ownership, use and maintenance of such open lands as it deems necessary to assure the preservation of the natural and scenic qualities of such lands.

In considering an application for cluster subdivision, the Planning Board shall follow the review process established for subdivisions in the Town of Great Valley Land Division Regulations.

E. Setback from Stream Bank

In addition to the required setbacks contained in Table 3-2, all buildings, structures and land use activities, except for agriculture and forestry, shall be set back a minimum of 50 feet from the top of the bank of any stream that is designated as protected or protected-eligible by the NYS Department of Environmental Conservation.

Streams so designated as of January 1, 2007 are shown on the Physical Features Map contained in the Town's Comprehensive Plan and are described in the Comprehensive Plan text. Streams that may be designated as protected by NYS

Department of Environmental Conservation after that date shall also be subject to the setback provisions of this sub-section.

F. Retail Establishment Size Cap

(1) Purpose

The Town of Great Valley Comprehensive Plan sets policies to preserve the rural and small town character of the community and to promote resident serving and small scale commercial development. In order to implement the policies contained in the Town's Comprehensive Plan, the following cap on the size of retail establishments is enacted.

(2) Applicability and Exceptions

This retail size cap shall apply to all retail establishments in the Town of Great Valley, except the following:

- (a) Non-retail commercial uses, such as warehousing and offices
- (b) Automobile, truck and recreational vehicle sales
- (c) Sales of farm machinery and supplies
- (d) Sales of building supplies

(3) Retail size cap

In addition to the requirements contained in Table 3-2, retail establishments shall not exceed 40,000 square feet of gross floor area on any one floor.

For the purposes of this sub-section, the term "gross floor area" shall include indoor and outdoor space used for retail display and sale of goods. No combination of structures, or structures and outside retail display and sales areas on the same lot or on contiguous lots or parcels shall exceed 40,000 square feet in gross floor area for a single retail establishment. A retail establishment containing more than one structure, which is in one ownership or management, whether located on a single parcel or contiguous parcels, shall be considered to be a single retail establishment for purposes of this section.

G. Exceptions to Residential Front Setback Requirements

In the Hamlet Residential-Commercial (HCR) Zoning District, when a single- or two-family dwelling is proposed to be located on a street where the existing homes have front yard setbacks that are less than that required for the zoning district in which they are located, the minimum front setback for the new residence shall be calculated by taking the average of the front yard setbacks of the five houses to the right and the five houses to the left of the lot on which the new residence will be

located. If the block on which the new dwelling is to be located has fewer than ten houses, then the average of the front yard setbacks for the existing houses on that block shall be used to calculate the minimum front yard setback. The purpose of this exception is to promote the continuation of traditional building patterns, which are important to the character of the hamlets.

ARTICLE 4 SUPPLEMENTARY REGULATIONS

Section 4.1 Performance Standards

In order to protect the health, safety and welfare of the residents of the Town of Great Valley, any new commercial or industrial use, which may otherwise be permitted by the Land Use Tables, shall be conducted in such a manner so as to not create any dangerous, injurious, noxious or otherwise objectionable effect. In this regard, commercial and industrial uses shall conform to the following performance standards. Failure to continue to conform to these performance standards may result in the revocation of the zoning permit. Pursuant to Cattaraugus County's Right-to-Farm Law, these standards shall not apply to agricultural operations.

- A. Vibration:** The operation of the facility shall not cause any vibration that is discernable without instruments on any abutting property.
- B. Dust:** The operation of the facility shall not cause dust from any source (air emissions, vehicular traffic, etc.) to be deposited on any abutting property or on the public right-of-way. In the event that a permitted land use activity, such as construction activity or a previously permitted gravel mine, causes dust or mud to accumulate on the public right-of-way, then a remediation plan must be developed and filed with the Zoning Officer and such dust shall be cleaned up in accordance with the remediation plan.
- C. Fire hazard:** The operation shall not involve the use or storage of flammable or explosive materials, unless adequate measures are in place to protect adjacent properties.
- D. Lighting:** Lighting from parking lots, building façade lighting or other site lighting shall not spill over onto adjacent properties. The Planning Board, Building Inspector, Zoning Officer or other Town Board or official may require a Lighting Plan, which shows light intensity in footcandles, and which demonstrates that site lighting conforms with this standard.
- E. Odors:** The operation shall not cause any offensive odors that are discernable on adjacent properties.
- F. Noise:** The operation of the facility shall not cause an increase in the ambient noise level, measured at the property line of the facility, that is more than a 3 decibel increase at nighttime (10 PM through 6 AM) or that is more than a 6 decibel increase during the day (6 AM through 10 PM). Noise created by construction work between the hours of 6 a.m. and 10 p.m. shall be exempt from this standard.

Section 4.2 Signs

A. Purpose

This section of the Zoning Law is intended to promote attractive signs which clearly present the visual message in a manner that is compatible with their surroundings. The appearance, character and quality of a community are affected by the location, size, number, construction and graphic design of its signs. The purposes and intent of this section of the Zoning Law, which regulates signs in the Town of Great Valley, are:

- (1) to encourage the effective use of signs as a means of communication in the Town of Great Valley
- (2) to enhance and protect the physical appearance of the community; to preserve and maintain the scenic natural beauty of the community; and to provide for a more enjoyable and pleasing community
- (3) to maintain and enhance the Town's ability to retain existing businesses and to attract new sources of economic development and growth,
- (4) to improve pedestrian and traffic safety,
- (5) to reduce distractions and obstructions that may contribute to traffic accidents or otherwise affect public safety, and
- (6) to minimize the possible adverse effects of signs on nearby public and private property.

B. Permit Required

Except as hereinafter provided, no person shall erect, alter, construct, relocate or cause to be erected, altered, constructed or relocated any sign in the Town of Great Valley without first having obtained a Sign Permit issued by the Zoning Officer, upon authorization by the Planning Board or Town Board, as may be required in this local law.

C. Exempt Signs

The following signs shall not require a Sign Permit, provided that such sign meets the general standards of this Zoning Law:

- (1) Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations, not exceeding six (6) square feet.
- (2) On-premise directional signs for the convenience of the general public, identifying public parking areas, entrances and exits, fire lanes and no parking zones, and similar site features. On-premise directional signs shall not exceed six (6) square feet per sign face and four (4) feet in height. Business and personal names shall be allowed on the directional signs, but no advertising

- messages shall be allowed. On-premise directional signs may be illuminated.
- (3) Warning, private drive, posted or no trespassing signs, not exceeding six (6) square feet per sign face.
 - (4) Agricultural signs not exceeding six (6) square feet per sign face.
 - (5) One on-premise sign, either freestanding or attached to the building wall, in connection with any residential building in any zoning district, for a permitted home-based business or Bed and Breakfast Establishment, provided that the sign does not contain more than two sign faces and provided that the sign faces do not exceed six (6) square feet per sign face. The sign shall be set back a minimum of ten (10) feet from the front property line. The sign may be illuminated.
 - (6) For a residence, one sign indicating the name and address of the occupant of the premises, not to exceed six (6) square feet per sign face. Such sign shall not project above a roofline. It may be mounted on the building wall or be freestanding. Such address sign shall not be permitted if the premises contains a sign for a home occupation or Bed and Breakfast Establishment. The sign shall be set back a minimum of ten (10) feet from the front property line. The sign may be illuminated.
 - (7) Temporary signs, such as signs for political candidates and yard sale signs, whether for commercial, political or private purposes, shall be permitted, subject to the following conditions:
 - (a) No such sign shall exceed thirty-two (32) square feet in area, per sign face.
 - (b) No such sign shall obstruct traffic or interfere with the line of sight of persons and vehicles using public streets.
 - (c) Such sign shall not be in place for more than 30 days before the event which is being advertised, and shall be removed within 48 hours after the event being advertised is completed.
 - (d) Such signs shall not be located in the public right-of-way or on other public property.
 - (e) The name and address of the sponsor and the person responsible for removal are identified.
 - (8) A place of worship, school, community building or other public building shall be permitted one sign on the premises on which such building is located, provided that the area of such sign does not exceed 32 square feet, and such signs are set back a minimum of 10 feet from the front property line. The sign may contain a message board; the area of the message board shall be included in the total sign area.
 - (9) For new construction or renovation, one sign, not exceeding 32 square feet in area, indicating the project name and the names of the architect, builders,

contractor, bank, engineer, participating public and governmental agencies, and similar involved entities, may be erected for a period of 60 days prior to the commencement of construction, plus the construction period. Such sign shall be removed within 30 days of the completion of the construction project.

- (10) Signs necessary for the identification, operation or production of a public utility may be erected on the premises of such public utility. Such signs shall conform to the requirements of the district in which the facility is located. Signs in the R-R Rural Residential Zoning District may not exceed six (6) square feet in area; signs in other zoning districts may not exceed thirty two (32) square feet in area.
- (11) One sign for a Farm Stand, as permitted in this Zoning Law, provided that such sign does contain more than two sign faces, does not exceed 32 square feet per sign face and the sign is set back a minimum of 10 feet from the front property line.
- (12) Any sign painted or lettered directly on a window, or displayed in a window.
- (13) Neon signs displayed in a window.
- (14) Any sign located within a building that is not visible from outside of the building.
- (15) Any sign that is under 10 square feet in sign area and that is located a minimum of 100 feet from any existing sign, and that is located a minimum of 10 feet from the right-of-way line.

D. Prohibited Signs

All signs not expressly permitted in this Zoning Law or expressly exempt from regulation are prohibited. Such signs include, but are not limited to:

- (1) Signs that constitute a traffic hazard. No sign shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision; or at any location where, by reason of position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words “stop,” “look,” “danger” or other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.
- (2) Indecent, pornographic or defamatory signs.
- (3) Signs that contain flashing, rotating, moving or animated parts, including an Electronic Message Display, except that one Time and Temperature Unit per sign will be permitted.

- (4) Off-premises signs.
- (5) Signs mounted on the top of the roof are prohibited. However, a sign may be located on the lower part of the roof, as long as the top of the sign is not higher than the highest peak of the roof. A sign mounted on a roof shall be considered to be a wall sign for purposes of calculating the total number of signs that are permitted on a lot.
- (6) Sign higher than the building which it identifies.
- (7) Vehicle signs.

E. Community Event Signs

The Town Board may authorize the Zoning Officer to issue a sign permit for temporary cloth signs, banners, streamers, etc., which are proposed to be suspended over, or placed on public property. The Town Board may require reasonable liability insurance coverage for such installation. Such temporary signs shall be removed within 24 hours after the advertised event or at the end of the season if a seasonal event is advertised, or within other such time period as the Town Board may authorize.

F. General Standards For Signs

All signs erected within the Town of Great Valley shall conform to the following standards:

- (1) A sign, except signs erected by a governmental entity for a public purpose, shall not be attached directly or indirectly to any public light standard, traffic control structure, utility pole, or tree.
- (2) Signs shall be maintained in a safe, legal and well-maintained condition at all times.
- (3) No sign shall be placed in or project into any street right-of-way.
- (4) Town approval shall in no way eliminate the need for a permit from the New York State Department of Transportation (NYSDOT), when NYSDOT also has jurisdiction.
- (5) Signs shall be located so that visibility from driveways and street intersections is not adversely affected.
- (6) No sign shall be a hazard or a threat to the health, safety or welfare of the residents of the Town of Great Valley or to any visitors to the Town.

- (7) Signs shall be integrated into the overall building and site design in terms of size, shape, color, texture, and lighting. Where more than one sign is proposed to be located on a lot, all signage should exhibit a uniform, consistent design that is complementary to the design of the building.
- (8) **Total signage:** Upon approval by the Planning Board, a property may contain wall signs and one freestanding sign. One Message Board per property may be incorporated into either a wall sign or freestanding sign; the Message Board shall be included in the total allowable sign area. The Planning Board, in its discretion, may approve fewer signs, especially on small lots, to prevent sign proliferation. Sign proliferation in one area can be a hazard to drivers and has been shown to be ineffective in conveying the intended message to passers-by. If a building is located close to the right-of-way or is designed in such a way as to serve as a sign, the Planning Board may determine that a freestanding sign is not necessary. On-premise directional signs are exempt from this total.
- (9) **Illumination standards:**
 - (a) No sign shall contain strobe lights or black lights. No sign shall be illuminated by strobe lights or black lights.
 - (b) No sign shall be designed or illuminated in such a way that it affects traffic safety.
 - (c) An illuminated sign or lighting device shall employ only lights emitting a light of constant intensity. No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights.
 - (d) In no event shall an illuminated sign or lighting device be placed or directed so as to permit light to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

G. Standards for Wall Signs

All wall signs shall conform to the following standards:

- (1) A wall sign shall have only one sign face.
- (2) No wall sign shall cover, wholly or partially, any wall opening.
- (3) No wall sign shall project beyond the ends or top to the building wall to which it is attached, nor be set out more than fifteen (15) inches from the face of the building to which it is attached.
- (4) No wall sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape.

- (5) For a building with a single occupant, wall signs not to exceed a total of 96 square feet in area, per street frontage, may be approved. If there is more than one sign per frontage, the signs should be compatible in style and color.
- (6) For buildings with multiple tenants and/or uses, the size, design, colors and materials of the signage shall be similar for all tenants/uses, to provide a consistent, uniform appearance.
- (7) The size of the wall sign shall be in proportion to the building on which it is located. For a building with a single occupant, wall signs may not exceed 96 square feet in total sign area per street frontage. For larger buildings with multiple tenants/uses the total area of the signage for all tenants may exceed 96 square feet, if the Planning Board determines that the size and nature of the building requires additional square footage to adequately identify the tenants/uses that occupy the building.
- (8) A sign mounted on the roof of a building shall be considered to be a wall sign, for purposes of computing the total amount of signage allowed on a lot. A roof sign shall conform to the maximum size and other standards for wall signs.

H. Standards for Freestanding Signs

All freestanding signs shall conform to the following standards:

- (1) Freestanding signs shall have a maximum of two sign faces.
- (2) Double-faced signs shall be constructed so that the perimeter of both faces coincide and are parallel and are not more than 24 inches apart.
- (3) For safety and appearance, no guy wires shall be allowed.
- (4) Only one freestanding sign shall be allowed per lot. If more than one tenant/use is located on a property, all tenants/uses shall share the available sign area.
- (5) Freestanding signs shall not exceed 20 feet in height. Freestanding signs are encouraged to be placed as close to the ground as possible. When a freestanding sign is located near a driveway or street intersection, the sign shall be located such that it does not cause restricted visibility for drivers and pedestrians.
- (6) Freestanding signs shall not exceed 96 square feet in sign area.
- (7) Freestanding signs shall be set back a minimum of 20 feet from the edge of the right-of-way. No part of a freestanding sign may project over or into the right-of-way.
- (8) Freestanding signs shall not encroach into the required side yard setback.

- (9) On streets where the posted speed limit is 45 miles per hour or less, and in the Hamlet Commercial Residential (HCR) Zoning District, freestanding signs should be located a minimum of 150 feet apart. On streets where the posted speed limit exceeds 45 miles per hour, freestanding signs should have a minimum separation of 300 feet. These distances are based on studies showing the minimum detection time for signs, as required for traffic safety. However, for lots of record that are non-conforming in terms of lot size and/or frontage, the Planning Board may approve freestanding signs that are closer together than this standard, if the Board determines that the signs will not pose a safety hazard or affect the visibility of existing signs.

I. Standards for Projecting Signs

- (1) Every projecting sign shall be placed so that its lowest point shall be at least eight (8) feet above ground level and the distance of the vertical edge nearest the building shall not exceed three (3) feet from the face of the wall to which it is attached, or shall any sign or part thereof extend nearer the curb line than one (1) foot.
- (2) All letters, figures, characters or representations in cut-out or irregular form maintained in conjunction with, attached to, or superimposed upon, any sign shall be safely and securely built or attached to the sign structure.
- (3) No projecting sign shall be erected, relocated or maintained so as to prevent free ingress to, or egress from, any door, window or fire escape.
- (4) Lighting shall be permitted on projecting signs, provided that illumination is concentrated upon the area of the sign so as to prevent glare upon the street or adjacent property.
- (5) Projecting signs exceeding fifty (50) pounds in weight shall not be attached to or supported by frame buildings or the wooden framework of a building. No projecting sign shall be secured with wire, stripes of wood or nails, nor shall any projecting sign be hung or secured to any other sign.

J. Standards for Awnings and Canopies

- (1) The lowest part of an awning or canopy shall be a minimum of 8 feet above grade level.
- (2) Signage on an awning or canopy may be in addition to the permitted wall sign for the building occupant and shall conform to all the requirements for a wall sign contained herein, except that the canopy or awning can project more than one foot from the building wall.

K. Standards for Supergraphics

The Planning Board may approve signs painted directly upon building walls, including murals. If such sign is used for advertising purposes, the total area of the supergraphic shall be included in the total allowable sign area for the building, and it shall comply with all requirements for a wall sign, including sign area and height.

L. Sign Permit Application Procedure**(1) Application Requirements**

Application for a sign permit shall be made to the Planning Board in writing on forms provided by the Town of Great Valley. The application shall include the following information:

- (a) Name, address and telephone number of the applicant.
- (b) Name, address and telephone number of the owner of the property, if different than the applicant.
- (c) Location of the building, structure or land upon which the sign now exists or is to be erected.
- (d) If a new sign is to be erected, to-scale elevation and plan drawings of the proposed sign shall be provided. This shall include a full description of the placement of the proposed sign, showing its location on the premises, specifically in relation to buildings, structures and property lines.
- (e) The appearance of the proposed sign should be described. The description should include the colors and materials of the sign; the graphic design, including symbols and letters; the text, copy and/or content of the sign; and the dimensions of the sign, including the area of the sign face and the height of the sign.
- (f) The method of illumination, if any, and the position of lighting or other extraneous devices.
- (g) Written consent of the owner, or a copy of the contract made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner.
- (h) The required application fee, if any.

(2) Decision

The Planning Board shall make a determination on the application for sign permit within 62 days of receipt of a complete application. The Planning Board may approve, approve with conditions or modifications, or deny an application for sign permit. Before the Planning Board issues a sign permit, with or without conditions, the Board must make all of the following findings:

- (a) The proposed sign is consistent with the intent and purpose of the Zoning Law and conforms to all the criteria in this section, and all other sections, of the Zoning Law.
- (b) The size, location and configuration of the proposed sign are consistent with the character of the neighborhood in which it is located and compatible with similar signage.
- (c) The size, location and configuration of the proposed sign are consistent with the intent and purpose of the Comprehensive Plan.
- (d) The sign is integrated into the overall building and site design in terms of size, shape, color, texture, and lighting, and the sign design is complementary to the design of the building. If more than one sign is located on a lot, the signage exhibits a consistent design scheme.
- (e) The proposed sign does not pose a safety hazard.

The Planning Board shall notify the Zoning Officer, Building Inspector and the applicant of its decision within five business days. If approved, the Zoning Officer shall issue the sign permit in accordance with any conditions that may have been part of the approval.

M. Signs approved through Site Plan Review

When the Town of Great Valley Planning Board considers signage as part of an application for Site Plan Review, those signs shall be considered approved when the Site Plan application is approved. However, the applicant shall obtain a sign permit from the Zoning Officer for any such signs, prior to construction or installation of the signs.

During the site plan review process, the Planning Board shall use the criteria in this Section to evaluate any proposed signs. In addition, where more than one sign is proposed, the Planning Board shall ensure that there is a coordinated plan for the location and size of all signs for the entire project area. The Planning Board shall ensure that all signs are architecturally integrated with their surroundings in terms of size, shape, color, texture, and lighting, and that they are complementary to the overall design of the building(s) and entire site.

N. Removal of Obsolete Signs

If the business or activity, which a sign advertises, either moves or ceases operation, the sign(s) associated with that business or activity shall be removed within 30 days of the last day of operation at that location.

O. Maintenance

- (1) A sign shall be maintained in a secure and safe condition. If the Building Inspector determines that a sign is not secure, safe or in good repair, written notice of this deficiency shall be given to the owner of record. If the defect is not corrected within the time period specified in the notice, the Building Inspector may revoke the sign permit and/or pursue other enforcement actions, including removing or repairing the sign and assessing the owner for all costs incurred for such service.
- (2) The Building Inspector may cause any sign which is a source of immediate peril to persons or property to be removed immediately and without notice.
- (3) The NYS Building Code may provide other remedies.
- (4) All signs shall conform to the standards of the NYS Building Code that are in effect at the time the Sign Permit is issued.

P. Amortization of Non-conforming Signs

- (1) If a sign is non-conforming or becomes non-conforming as a result of amendment to these regulations, each non-conforming sign and sign structure shall be allowed to be displayed for a period of time that provides a reasonable opportunity for the owner to benefit from the investment made in the sign.
 - (a) An on-premises non-conforming sign, which is not governed by Section 88 of NYS Highway law or Section 74-c of General Municipal Law, shall be allowed to be displayed for a period of five (5) years from the effective date of this zoning Law. After this time period has expired, non-conforming signs and sign structures shall be removed or otherwise brought into compliance with the requirements of this Zoning Law.
 - (b) A non-conforming, off-premises sign that is not located in the Commercial-Industrial Zoning District, which is governed by Section 74-c of NYS General Municipal Law, shall be allowed to be displayed for the relevant time period specified in Section 74-c(2) of General Municipal Law. After the time period specified in that law, the non-conforming signs and sign structures shall be removed or otherwise brought into compliance with the requirements of this Zoning Law.

- (c) A non-conforming, off-premises sign that is located in the Commercial-Industrial Zoning District and that is governed by Section 74-c of NYS General Municipal Law, shall not be required to be removed, unless such removal is in accordance with the provisions of Section 74-c(1) of NYS General Municipal Law.
 - (d) If a non-conforming, off-premises sign is located in the Commercial-Industrial Zoning District, and is subject to the provisions of Section 88 of NYS Highway Law, such sign shall not be required to be removed, unless such removal is in accordance with the provisions of that Law.
- (2) Any sign not removed within the time limit herein stated shall be deemed a public nuisance, subject to the removal provisions of this section and shall be removed by the Town of Great Valley, if the owner of the sign or property owner fails to do so after being so ordered by the Zoning Officer. Costs of said removal shall be borne by the property owner and may be recovered by the Town, if necessary, by placing a lien against the property taxes of the parcel.

Section 4.3 Off-street Parking, Loading Areas, Drive-through Windows and Road Standards

A. Off-Street Parking Required

In all zoning districts and in connection with every residential, commercial, industrial, institutional or other use, at any time any building or structure is erected, enlarged or increased in capacity, or when there is a change of use, off-street parking spaces for vehicles shall be provided in accordance with the requirements of this section. These are minimum requirements; the Planning Board may require additional parking in cases where the anticipated intensity of the proposed use warrants additional parking.

B. General Parking Standards

- (1) A parking space shall be a minimum of 10 feet wide by 20 feet long, exclusive of parking aisles and driveways. All parking spaces shall be independently accessible, except that required parking spaces for single-family and two family dwellings may be provided by tandem parking.
- (2) In the case of a combination of uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit shared use of parking areas or other modifications warrant a lesser number of off-street parking spaces.

- (3) Whenever a major fraction (more than one-half) of a space is required, a full space shall be provided.

C. Minimum Parking Requirements

The number of off-street parking spaces to be provided shall not be less than the following:

Use	Parking Spaces Required
Single Family Dwelling	2 spaces per dwelling unit
Two-family Dwelling	2 spaces per dwelling unit
Multiple Family Dwellings & Townhouses	2 spaces per one-bedroom unit 3 spaces per two-bedroom unit or greater
Hotel/Motel/Inn	1 space per guest room, plus 1 space for every three employees
Bed and Breakfast Establishment	1 space for every room let, plus 2 spaces for the single-family dwelling
Churches, Places of Worship, Theaters, Places of Assembly, Bars, Clubs & Restaurants	1 space for every four seats or 1 space for each 4 persons allowed under the maximum occupancy load, if there are no seats
Golf course	4 for each hole
Bowling alley	4 spaces for each lane
Day Care Center	1 space per employee, plus 2 additional spaces
Retail Uses, Repair Shops, Personal Service Establishments Offices, Banks	1 space per 300 square feet of gross floor area
Industrial Uses	1 space per 1,000 square feet of gross floor area, or 1 space for every two employees on the largest working shift, whichever is greater.
Warehouses	1 space per 2,000 square feet of gross floor area
Nursing Home	1 space for every three beds plus one space for each two employees on the largest working shift
Funeral Home	1 space for each 75 sq. ft. of gross floor area, or 1 space for every 4 fixed seats, whichever is the greater
Gasoline station	1 space per employee on the largest working

	shift. Required parking spaces or their maneuvering area shall not conflict with vehicles being fueled or awaiting fueling
Gas station with mini-mart	Required number of spaces shall be calculated by combining the spaces required for a gas station with those required for a retail use.
Other Uses not specified	As may be determined by the Planning Board

D. Standards for Parking Lots

All parking lots shall comply with the following standards:

- (1) Adequate access shall be provided to all parking spaces. Within the parking lot, the driveway aisles shall be a minimum of 24 feet wide. For lots with angled parking and one-way drive aisles, the driveway width may be reduced to 18 feet.
- (2) Any lighting that illuminates off-street parking lots, parking areas and driveways shall be located and arranged so that light does not spill over onto any adjoining properties or the adjacent right-of-way.
- (3) If a parking lot abuts a property in residential use, adequate shielding shall be provided to ensure that the adjacent residents are protected from glare from lighting and from car headlights. In addition, the parking lot shall be set back a minimum of 6 feet from the residential lot line, and this setback shall be landscaped and/or fenced, as determined by the Planning Board.
- (4) For parking lots providing spaces for more than five automobiles, a minimum four foot wide landscaped buffer strip shall be provided between the public right-of-way and the parking lot.
- (5) To the maximum extent feasible, parking lots shall be placed to the side or rear of the building they are designed to serve, not in the front.
- (6) All parking shall conform to the requirements of the Americans with Disabilities Act (ADA).
- (7) Driveways used for access to parking lots shall be clearly visible and clearly defined. Under no circumstances shall the entire frontage of a lot be used as a driveway. Areas outside of the driveway and paved parking areas shall be landscaped. Driveways shall be constructed at a 90 degree angle to the street.

- (8) Where feasible, driveways shall not be located closer than 30 feet to an intersection of two public rights-of-way.
- (9) The minimum width for a two-way driveway that serves a parking lot is 20 feet. The maximum width of such driveway shall not exceed 35 feet.
- (10) No more than two driveways entering on one street from a single commercial establishment shall be permitted.
- (11) Shared driveways for abutting commercial establishments shall be encouraged. Interconnected parking lots for adjacent commercial developments are encouraged. Cross-access may be provided at the rear of the parking lots.
- (12) Parking lots shall maintain a minimum setback of five (5) feet from all property lines. The Planning Board may require larger setbacks, if greater buffering for adjacent uses is necessary and/or desirable. In establishing this minimum setback, the intent is to allow for flexibility of design, not to encourage the entire site to be paved. The intent is to provide for an adequate amount of parking to serve the proposed use, and to encourage the remainder of the lot to be landscaped, which will serve the dual purposes of having an aesthetically pleasing development and reducing stormwater runoff.
- (13) Snow Storage Plan: All applications that propose new parking lots and/or private roads shall provide a snow storage plan, which will demonstrate that there are one or more adequate, practical areas to accommodate all snow storage on site. The snow storage plan shall be reviewed, modified if necessary, and approved by the Board having jurisdiction for Site Plan Review, Planned Unit Developments, Special Use Permits and/or any other discretionary permits

E. Off-Street Loading and Unloading Spaces

Every building having a gross floor area of 10,000 square feet or more and requiring the loading or unloading of trucks, shall provide and maintain at least one off-street loading space or dock plus one additional space for each additional 100,000 square feet of gross floor area or fraction thereof. Each loading space shall be not less than 12 feet in width, 25 feet in length and 14 feet in height, or shall be of a size adequate to accommodate the expected size of the trucks.

Loading docks or spaces shall be located in such a way as not to unreasonably interfere with the movement of people and vehicles on public rights-of-way. Loading spaces or docks shall not be permitted at the front of a building, where the front is visible from a public right-of-way.

F. Drive-through Windows

Where permitted in Article 3 of this Zoning Law, the Planning Board may approve, by special use permit, developments that include a drive-up or drive-through window. Facilities that incorporate drive-through features shall provide adequate space to provide for safe operation of a drive-through window and shall design the site so that the users of the drive-through window do not pose a hazard to vehicular or pedestrian traffic, on or off the site.

- (1) The following minimum stacking spaces shall be provided for each drive-through window. The Planning Board may increase these minimums if the expected usage so warrants:
 - (a) Bank: three stacking spaces
 - (b) Restaurant: six stacking spaces
 - (c) Pharmacy: six stacking spaces
 - (d) Car Wash: four stacking spaces
 - (e) Uses not mentioned: as determined by the Planning Board
- (2) Stacking spaces shall be designed so as not to impede pedestrian or vehicular circulation on the site or on any abutting street. Each stacking space shall be a minimum of 20 feet long.

G. Waiver of parking requirements

During the review of applications for site plan review or special use permit, the Planning Board may waive or reduce the requirements for off-street parking contained in this Section, provided that the Planning Board finds that one or both of the following circumstances exists:

- (1) The applicant has entered into a legal agreement with a nearby facility to use the parking lot of that facility, and, in the opinion of the Planning Board, the existing parking area is adequate to serve both facilities. Shared use of parking areas for facilities that have different hours of operation is encouraged.
- (2) The applicant has entered into a legal agreement for shared use of an adjacent parking lot and the Planning Board makes the determination that the parking lot is adequate to serve both facilities.

H. Public and Private Road Standards

- (1) Standards applying to all Roads
 - a. All roads shall be of sufficient width, suitable grade, and adequate road geometry to facilitate fire protection and to provide adequate access to buildings for firefighters, firefighting equipment and other emergency vehicles, such as ambulances.

- b. All roads shall be of sufficient width, suitable grade, and adequate road geometry to accommodate the prospective traffic for the type of development which they are proposed to serve.
- c. Intersections shall be designed to ensure clear sight distances for on-coming vehicles.
- d. New residential subdivisions and other developments should allow for the future connectivity of roadways and sidewalks with adjacent properties. To ensure future connectivity, the Town may require road rights-of-way to extend to property lines and may require the street pattern on a new development to interconnect with an existing development on an adjacent property.

(2) Public Roads

- a. Roads to be dedicated to the Town (proposed public roads) shall comply in all respects with the standards contained in "Town of Great Valley Regulations for the Development, Construction and Dedication of Town Roads," as may be amended from time to time.
- b. The design of all roads to be dedicated to the Town shall be approved by the Town Engineer and Highway Superintendent.

(3) Private Roads

- a. Roads that serve four or more individual properties and are not built to the standards contained in "Town of Great Valley Regulations for the Development, Construction and Dedication of Town Roads," shall be considered private roads. The developer shall provide a permanent means of maintaining private roads in perpetuity, such as a Homeowners Association.
- b. When roads that are not built to the standards contained in "Town of Great Valley Regulations for the Development, Construction and Dedication of Town Roads," there shall be a notation placed on the Plat map, or other formal notification shall be provided in instances where there is no plat map, stating that such roads are not built to Town Road standards and therefore will never be dedicated to the Town.
- c. As part of the review of Site Plan Review, Planned Unit Developments, Special Use Permits and/or other discretionary reviews authorized in this Zoning Law, the Town Engineer shall approve the design of all private roads.
- d. All private roads shall be constructed and paved in a manner appropriate for the prospective traffic volume and types of vehicles anticipated from the proposed use, as approved by the Town Engineer.

- e. In general, grades of greater than 10 % shall not be allowed, in order to provide for adequate access by emergency vehicles. However, for roads designed to serve low volume developments, a grade greater than 10% may be allowed pursuant to the generally accepted standards published by the American Association of State Highway and Transportation Officials (AASHTO) for Very Low-Volume Local Roads.
- f. Because private roads will generally have a lower traffic volume than that of public roads, it is the intent of this Law to provide some flexibility of road design. Road design (grade, lane width and geometry) shall meet the AASHTO standards for Very Low-Volume Local Roads, based on the anticipated level of usage of the proposed road. Usually, twelve (12) foot travel lanes should be provided; however, in some instances travel lanes as narrow as 10 feet (total road width of 20 feet) may be appropriate, in order to reduce the amount of impervious surfaces and to provide a more rural appearance to a development. Therefore, as long as the road design can be demonstrated to be accessible for emergency vehicles and meets the appropriate AASHTO standards, the Town Engineer may approve lane widths as narrow as 10 feet wide, if it can be shown that the overall design and functionality of the proposed project would benefit.

(4) Shared Driveways

When a private road serves three or fewer lots, it shall be considered to be a shared driveway. In this instance a joint driveway maintenance agreement with requisite easements, in a form approved by the Town Attorney, will be permitted in lieu of a Homeowners Association.

Section 4.4 Manufactured Homes, Mobile Homes and Trailers

A. Manufactured Homes on Individual lots

- (1) Where permitted in the Land Use Table of this Zoning Law, one Manufactured or Mobile Home may be located on a lot where a single family home is otherwise permitted. Installation of a manufactured or mobile home shall be in lieu of a single-family home, not in addition to a single family home.
- (2) A Manufactured or Mobile home placed on a single family lot shall conform to the following requirements:
 - (a) Prior to placement of the home on the lot, the property owner shall obtain a building permit.

- (b) The manufactured or mobile home shall be located as the principal use on the lot. The manufactured or mobile home shall be a minimum of 12 feet wide.
- (c) The lot shall meet the minimum lot size standards of the zoning district in which it is located.
- (d) Prior to the issuance of a building permit, the applicant shall provide approvals from the Cattaraugus County Health Department, or other agency having jurisdiction, that adequate provision has been made for water supply and sanitary sewerage disposal.
- (e) The manufactured or mobile home shall conform to all required setbacks and other dimensional requirements of the zoning district in which it is located.
- (f) The manufactured or mobile home shall be placed on a permanent foundation that meets the manufacturer's installation requirements and all state and local building codes.
- (g) All towing apparatus, wheels and exposed chassis shall be removed prior to issuance of an occupancy permit.
- (h) All manufactured homes/mobile homes, which are not installed on a permanent, enclosed foundation that is set below the frost line, shall have skirting installed. The skirting shall screen the entire space between the manufactured home floor and the ground and shall be installed prior to the issuance of an occupancy permit. All manufactured homes shall be completely skirted in an attractive manner. Materials used for skirting shall provide a finished exterior appearance and shall be similar in character to the material used in the manufactured home. Skirting shall be completed within thirty (30) days of the date the manufactured home or mobile home was placed on the site.
- (i) No more than one manufactured or mobile home may be located on a lot, unless a special use permit has been granted for a Manufactured Home Park.

B. Manufactured Home Parks

- (1) In Zoning Districts where Manufactured Home Parks are permitted by grant of special use permit, pursuant to the Land Use Table in Article 3 of this zoning law, an application shall be filed according to the procedures in Article 8 of this law.
- (2) All Manufactured Home Parks shall conform to the following requirements:

- (a) The development shall contain a minimum of five acres.
- (b) Each Manufactured and/or mobile home shall be placed on a Manufactured Home Space. Each Manufactured Home Space shall consist of a minimum of 5,000 square feet, with a minimum width of 50 feet. Manufactured home spaces shall be clearly defined. The minimum area of a manufactured home space shall not include roadways, streets, or any required setbacks or buffers.
- (c) No more than six (6) manufactured home spaces shall be permitted per gross acre.
- (d) No more than one manufactured home may be placed on a manufactured home space.
- (e) There shall be at least a 30 foot separation between individual manufactured homes, and between manufactured homes and any permanent structure in the park. This separation may be larger, if so required by NYS sanitary code.
- (f) All manufactured homes shall take access from an interior street. The street shall have a minimum hard-surfaced width of 20 feet if on-street parking will not be allowed or 28 feet if on-street parking is allowed.
- (g) The perimeter of the Manufactured Home Park shall comply with the setback and yard requirements of the zoning district in which it is located.
- (h) At a minimum, a hard-surfaced parking pad, which can accommodate two personal vehicles, shall be provided on each manufactured home space.
- (i) No outdoor storage of personal property shall be permitted, except within an accessory storage shed not exceeding one hundred sixty (160) square feet in size. A maximum of one storage shed per manufactured home space shall be permitted.
- (j) All manufactured homes or mobile homes shall be completely skirted in an attractive manner. Materials used for skirting shall provide a finished exterior appearance and shall be similar in character to the material used in the manufactured home or mobile home. If feasible, the tongue shall be removed. Skirting shall be completed within thirty (30) days of the date the manufactured home or mobile home was placed on the site.
- (k) The site shall be designed and graded to insure proper drainage.

- (l) The applicant shall provide approvals from the Cattaraugus County Health Department, or other agency having jurisdiction, that adequate provision has been made for water supply and sanitary sewerage disposal.
- (m) As part of project review, the Planning Board shall review and approve a landscaping plan for the site.

C. Recreation Vehicles and Trailers

- (1) Recreation or vacation trailers and boats owned by residents of the Town may be stored on the property of the owner for an unlimited period provided that no residence is taken therein or business conducted therewith. Such vehicles and boats shall not be stored in the front yard setback.
- (2) Recreation vehicles and similar trailers may be used on a site on a temporary basis. If residency lasts for more than 30 days, the property owner shall apply to the Zoning Officer for a permit. Such permit shall be valid for a period not to exceed seven months. At the end of the seven month period, the vehicle shall be removed from the site for a minimum of one month, before the vehicle can be re-established on site.

Section 4.5 Accessory Apartments

- A.** Where permitted in Article 3, an accessory apartment may be allowed as an accessory use to a lot containing a single family home.
- B.** All accessory apartments shall comply with the following standards.
 - (1) There shall be no more than one (1) accessory apartment per lot.
 - (2) The applicant shall demonstrate that the existing sewage disposal system and water supply are adequate to serve the accessory apartment.
 - (3) The applicant shall show that there is adequate off-street parking for the occupants of the accessory apartment, in addition to the parking required for the primary residence.
 - (4) An accessory apartment may be located in a freestanding building, in a garage, or in an addition to the principal dwelling on the site. If an accessory apartment is located in the principal dwelling unit, the entry to such unit and its design shall be such that, to the maximum degree feasible, the appearance of the building will remain that of a single family dwelling. If the accessory apartment is located in an accessory building, the accessory building shall conform to the setback requirements for the principal structure on the lot.

- (5) The minimum gross floor area for an accessory apartment shall be three hundred (300) square feet. The accessory apartment shall be no larger than 50% of the size, in gross square feet, of the main dwelling unit.
- (6) Mobile homes and/or manufactured homes shall not be allowed as accessory apartments.
- (7) Legal title to the accessory apartment and single-family unit shall be held in the same name.

Section 4.6 Farmworker Housing

Where permitted in Article 3, all farmworker housing shall conform to the following standards:

- A. The housing is provided by a farm operator for his/her employees, who are principally employed in farming or other agricultural activities that occur on the parcel on which the dwelling is located or on other parcels that are part of the same farming operation.
- B. The housing must conform to the standards of the New York State Uniform Building and Fire Prevention Code.
- C. Prior to issuance of a building permit for a farmworker dwelling on a lot, the applicant must provide written approval from the Cattaraugus County Health Department or other agency having jurisdiction, showing that adequate facilities exist for water supply and sewerage disposal.
- D. The dwelling may be located on a parcel that contains the farm owner's principal dwelling.
- E. The dwelling shall comply with the setback requirements for a principal structure in the zoning district in which it is located.
- F. The farm worker may be a seasonal and/or part time employee. The farm worker may be a partner or owner of the farm operation.
- G. If the farmworker housing has not been occupied for three consecutive years, the farm operator shall remove the structure from the site.

Section 4.7 Bed and Breakfast Establishment

Where permitted in Article 3 of this Zoning Law, a Bed and Breakfast Establishment shall conform to all the requirements of this Section, and any other applicable regulations of this Zoning Law.

- A. The owner of the Bed and Breakfast Residence shall reside in the dwelling as his/her/their principal residence.
- B. Food service may only be provided to overnight guests of the establishment and shall be limited to breakfast meals.
- C. No more than five rooms may be made available for overnight guests.
- D. Adequate parking is available for residents of the property and guests of the Bed and Breakfast Establishment.
- E. The Bed and Breakfast Establishment shall conform to all requirements of the NYS Building Code.

Section 4.8 Home-based Businesses

Where permitted in Article 3 of this Zoning Law, a home-based business shall conform to all the requirements of this section, and any other applicable regulations of this Law. Activities that conform to the requirements for Minor Home-based Businesses shall be allowed by right. All other activities shall be considered to be Major Home-based Businesses and shall require a Special Use Permit that has been approved by the Planning Board in accordance with the procedures contained in this Law.

A. General Standards

- (1) The home-based business is clearly incidental and accessory to the use of the building as a dwelling unit, does not change the character of the dwelling unit, and does not have any exterior evidence of such use, except for one sign as permitted in this Zoning Law.
- (2) There is no outdoor storage or display of material or equipment.
- (3) The home-based business shall not generate electrical interference, dust, noise, odors, smoke or traffic that disturbs the peace, quiet, and enjoyment of the neighborhood.
- (4) Retail sales are limited to goods produced on the premises. However, incidental retail sales associated with a permitted or special permitted home-based business, such as the sale of hair care products in a beauty shop, are permitted.
- (5) Customer/client visits to the home-based business shall be limited to the hours from 9 a.m. to 8 p.m.

- (6) Parties or gatherings for the purpose of selling merchandise or taking orders or conducting meetings shall not be held more than four times each month in any one residence.
- (7) All parking for customers of the home-based business can be accommodated on-site, in addition to the required parking spaces for the residential use of the property.
- (8) Delivery vehicles used to deliver goods to a home-based business are limited to passenger vehicles, United States Postal Service mail carriers, and express carriers such as UPS or FedEx. Deliveries shall be permitted between 8 a.m. and 7 p.m.
- (9) A home-based business shall be limited to the parking/storage of one commercial vehicle on the premises, not exceeding a one-ton capacity. Construction equipment (backhoes, etc.), regardless of whether or not they have commercial licenses, shall not be construed to be commercial vehicles for purposes of this section.

B. Minor Home-based Businesses

- (1) In addition to the General Standards, above, a Minor Home-based Business shall conform to all of the following requirements:
 - (a) There are no on-premise employees, other than the residents of the dwelling unit in which the home-based business is located.
 - (b) The home-based business shall not generate more than 5 customer/client visits in any one day, on average over a one-month period.
 - (c) The home-based business shall receive no more than two deliveries/pick ups per day from the delivery vehicles and services listed above.
- (2) Permitted minor home-based businesses may include, but are not limited to, the following, provided they meet the criteria for minor home-based businesses contained herein:
 - (a) Offices for authors and composers.
 - (b) Office of a salesman, sales representative, or manufacturer's representative.
 - (c) Offices for professionals such as architects, planners, brokers, counselors, clergy, draftspersons and cartographers, engineers, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, graphic designers, construction contractors, landscape designers, and surveyors.
 - (d) Tutoring of not more than six students at a time.
 - (e) Instruction in a musical instrument for not more than one student at a time.

- (f) Studios for artists, sculptors, musicians, photographers and craft persons (such as weaving, jewelry making, pottery, woodworking, taxidermy and similar arts/crafts).
- (g) Workrooms for tailors, dressmakers, milliners, haberdashers and upholsterers.
- (h) Direct sale product distribution, such as Avon, Tupperware, etc.
- (i) Typing, word processing services, data processing, computer programmers, web designers.
- (j) Cake decorating and baking/cooking/catering for a profit.
- (k) Beauty parlors and barber shops
- (l) Pet grooming establishments
- (m) small appliance repair

C. Major Home-based Businesses

- (1) Any home-based business that exceeds the standards in 4.8 (B)(1) shall be considered to be major home-based business. This includes uses that may be listed in section 4.8(B)(2).
- (2) No Major Home-based Business shall be put into operation without first obtaining a Special Use Permit in accordance with the provisions of this Law. In addition to the General Standards, above, a Major Home-based Business shall conform to the following requirements:
 - (a) There shall be no more than one on-premise employee, in addition to the residents of the dwelling unit in which the home-based business is located
 - (b) The Planning Board may establish, as a condition of approval, a maximum limit for the number of customer/client visits in any one day.

D. Prohibited Home-based Businesses

The following uses, by the nature of the scale and intensity of the activity, are more suited to a commercial or industrial district and shall not be permitted as home occupations, either major or minor:

- (1) Funeral homes
- (2) Automobile body repair work, including painting of automobiles;
- (3) Repair of automobile, snowmobile or other vehicular engines
- (4) Medical and dental offices
- (5) Retail sale of goods not made on the premises
- (6) Restaurants and bars
- (7) Kennels and veterinary clinics
- (8) Adult Uses

Section 4.9 Yard Sales

- A.** Yard sales are permitted provided that the following conditions are met:
- (1) No items may be offered for sale that have not been owned and used by the occupant of the premises. Multiple family sales are permitted if they are held on the premises of one of the participants.
 - (2) No more than five yard sales shall be conducted on any one lot in any one calendar year. Yard sales shall not be conducted for longer than three consecutive days.
 - (3) Yard sales shall be conducted during daylight hours only.
- B.** Rummage sales, white elephant sales and similar occasional fund-raising activities held by churches and other religious organizations; by clubs; or by charitable, educational, or service organizations shall not be construed to be yard sales.

Section 4.10 Site Design Standards

A. Purpose and Applicability

The purpose of this section is to protect the character of the community and to promote a high level of design for projects that require Planned Unit Development, Special Use Permit and/or Site Plan approval. In general, such projects tend to be larger in scale and therefore have the potential to have an impact on the aesthetics of the community.

B. Architectural Features and Building Mass

- (1) Buildings shall be designed to achieve a human scale and interest, and should be designed such that they do not overpower surrounding buildings, uses, and landscape. To accomplish this, the project shall conform to the following criteria, to the maximum extent feasible:
 - (a) Attention shall be given to the character of all sides of the building, not just the "front" facade.
 - (b) Long, uninterrupted blank walls are discouraged. Walls should contain window and door openings to make them inviting.
 - (c) Architectural detailing, such as recessed windows and/or doors, bays, and textured materials or decoration, is encouraged to create variety and provide interest.
- (2) The use of different textures, complementary colors, shadow lines, detailing, and contrasting shapes to create an appealing facade is strongly encouraged.

- (3) The development shall have an overall clarity and coherence of design. For projects where more than one building is proposed, the same or similar architectural design scheme, colors, and materials shall be consistent throughout the site.
- (4) Buildings that are longer than 60 feet shall be designed to have a prominent shift in the façade wall, both front and back, and/or a prominent shift in the roof line. Buildings that are 120 feet or longer shall have such a shift a minimum of every 60 feet.

C. Site Design

- (1) The site shall be laid out to promote the efficient use of land and to minimize disturbance to the natural grade and existing mature vegetation.
- (2) Site grading for new construction shall blend in with the surrounding grades. The finished grade shall not be significantly higher or lower than the surrounding area, and shall not appear unnatural. Grading should relate to the natural contour of the land. Graded areas shall be rounded off in a natural manner, so that there are no sharp angles at the top and toe of areas of cut and fill.
- (3) Loading docks or service delivery locations shall be located to the rear of the building and shall be screened from view.
- (4) Parking lots shall be located in the rear and/or side of buildings, not in the front of the building, where feasible.

D. Mechanical Equipment

- (1) Rooftop mechanical equipment shall be screened from public view by the use of architecturally compatible materials.
- (2) Ground level mechanical and service equipment (such as air conditioning units and utility boxes and meters) should be screened from public view by the use of landscaping, walls, fencing or other design treatment compatible with the architectural style and materials of the principal structure.
- (3) Garbage dumpsters and receptacles shall be placed out of view from adjacent properties, pedestrian ways (trails and sidewalks), and adjoining streets. Garbage dumpsters should be enclosed.

E. Lighting and Glare

- (1) Exterior lighting and fixtures for building illumination should be compatible with the architectural design.

- (2) Exterior lighting shall provide adequate illumination for security purposes without excess glare. All lighting, including that in parking areas shall be located to minimize glare and illumination of adjacent and neighboring properties.
- (3) To the maximum extent feasible, cut-off style fixtures meeting Illuminating Engineering Society of North America (IESNA) standards shall be installed. This type of fixture directs light downward where it is needed.
- (4) To the maximum extent feasible, security lighting should meet IESNA cut-off requirements. Floodlights and non-shielded wall-mounted fixtures spill the most light and cause glare. If cut-off fixtures are not used, the Planning Board may require motion sensor lights that turn on only when intruders are detected.
- (5) Lighting for signs shall be kept to the minimum needed to read the signs.

F. Landscaping

- (1) General Standards
 - (a) All exterior areas of any site not required for parking, driveways, sidewalks, primary and accessory structures or utility structures shall be landscaped. The landscaping plan shall provide sufficient landscaping to serve as a positive site amenity.
 - (b) The preservation of existing mature plant species and trees over 8 inches in diameter (measured at breast height) as a design element in a development's landscape plan is encouraged. The retention of existing vegetation may be incorporated into the development's landscaping plan.
 - (c) The landscaping plan shall provide sufficient landscaping and/or fencing to adequately screen mechanical equipment, loading docks and other unsightly site features.
 - (d) Landscaping features may include: the preservation of existing vegetated open space; plantings of deciduous trees, evergreens, shrubs, ground cover, perennial and/or annual plants; berms, walls, and fencing. No plastic or artificial plants shall be used to meet any requirement of this Law.
 - (e) Landscaped buffers, within the required setbacks, between existing residential uses and new commercial or industrial development are required. The amount of buffering shall be appropriate to the type of use, as determined by the Planning Board.

(2) Parking Lots

- (a) Landscaped buffers around the perimeter of parking lots to screen parked vehicles and to improve views of the site may be required, depending upon the visibility of the parking lot.
- (b) For parking lots providing spaces for more than five automobiles, a four foot wide landscaped buffer shall be provided between any adjacent sidewalk or public right-of-way and the parking lot.
- (c) Parking lots with more than fifty spaces shall dedicate at least 5 percent of the interior area to landscaping. Landscaping may include trees, shrubs, and ground cover, and should be established on planting islands throughout the parking lot. This requirement is in addition to the requirement for perimeter buffer planting.

(3) Maintenance

- (a) Landscaping shall be designed for easy maintenance. The selection of landscaping materials shall be compatible with the climate of western New York, soil type and condition, and water availability.
- (b) Landscaping shall be maintained in a healthy condition throughout the year. Landscaped areas are to be kept neat and free of litter and weeds.
- (c) The applicant and all succeeding owners are required to maintain the landscaping in perpetuity. If trees on the landscaping plan, including those retained at the time of the initial construction, die, they shall be replaced within six months. Shrubbery or other plantings that die shall also be replaced in kind within six months. If the landscaping plan calls for annuals, those plants shall be replaced yearly. If the landscaping is not well maintained, and/or replaced as needed, the Planning Board has the authority to revoke the project's approval.
- (d) The Planning Board may require a landscaping bond to be posted for a period of up to two years in an amount to cover the cost of the initial planting approved by the Board and for replacement planting during the first year.

(4) Landscaping materials

- (a) Landscaping materials shall have the following minimum sizes, at planting, unless the applicant can show that a smaller size would accomplish the purposes of this Section:

Plant Type	Minimum Size
Deciduous trees	2 inch caliper
Evergreen trees	6 foot height
Small flowering trees	1 inch caliper
Large shrubs	30 to 36 inch height
Small shrubs	18 to 24 inch height

- (b) Hedges shall be a minimum of 24 inches in height at the time of planting. Spacing of the planting shall depend upon the species. Hedges shall form a solid continuous visual screen at least three feet in height within 2 years of planting.
 - (c) Trees species where the branches are subject to a high incidence of breakage, or where the fruit is considered a nuisance or high maintenance shall not be used.
- (5) Ground Treatment
- (a) Ground cover may be planted in lieu of grass and in conjunction with planting of trees, shrubs, or hedges. Ground cover shall provide a minimum of 50 percent coverage immediately upon planting and 100 percent coverage within two years after planting.
 - (b) Grass areas shall be planted with species suitable as permanent lawns. Grass areas shall be regularly maintained.

Section 4.11 Townhouse Development

Where permitted, townhouses and attached single family dwellings shall be developed in accordance with the following standards.

A. Access and Parking

- (1) Individual townhouse units shall not have direct access onto existing Town roads. All townhouse units shall have access on an interior street or streets, which shall connect to existing town roads.
- (2) Roads shall meet the standards contained in Section 4.3H, Public and Private Road Standards, of this local law. One way streets may be approved to reduce the amount of grading required, as long as emergency vehicle access is not compromised.
- (3) Sidewalks shall connect each unit to the parking area serving that unit. If each unit has a garage and/or driveway, this feature will meet this requirement.

- (4) Where feasible, sidewalks or pedestrian trails shall connect buildings within the site and to the exterior roadway.
- (5) Shared driveways are permitted, with the recording of appropriate perpetual easements for the shared use.

B. Minimum Lot Area and Yard Requirements

- (1) Townhouse developments shall contain a minimum of 2 acres.
- (2) A maximum of eight attached single-family units per acre shall be permitted on sites where the average slope of the lot is less than 15 percent, as calculated pursuant to Section 3.2(C) of this Zoning Law. For lots where the average slope is 15 percent or greater, the allowable number of units permitted on the site shall be calculated according to Table B.

In the event that the density calculation results in a fraction, a fraction of a unit greater than one-half shall be rounded up to the nearest whole number. A fraction of a unit of one-half or less shall be rounded down to the nearest whole number.

Table B
Density for Attached Single Family homes
(Townhouses, Condominiums, etc.)

Percent of Slope	Units per Acre
0-14.9 percent	8
15-19.9 percent	6
20-24.9 percent	4
25 percent or greater	1

- (3) Townhouse units are encouraged to be clustered in one area of a site, provided that the total number of units does not exceed the allowable density for the site. Development shall be located on the flatter areas of the site. Any land which is left vacant because the development potential of that part of the lot has been transferred to another part of that lot shall be placed in a deeded, permanent open space easement.
- (4) In order to promote good design, there are no minimum yard requirements for each individual townhouse unit. The Town Board and/or the Planning Board (depending upon the type of application) will review and establish setbacks for each application. However, the project as a whole must conform to the minimum front yard, rear yard and side yard setbacks in the zoning district in which it is located.

C. Building and Site Design

- (1) The Townhouse Development shall exhibit consistency in architectural design and materials among all the buildings, structures, and walls on the project site.
- (2) There shall be a separation equal to one-half the average height of the end units between two adjacent rows of townhouses.
- (3) The townhouse development shall comply with the design and landscaping standards contained in Section 4.10 of this Zoning Law.
- (4) The water supply and sewage disposal systems shall be approved by the appropriate regulatory agencies, in writing, prior to final Town approval of the project.
- (5) An erosion control and drainage plan shall be submitted. Prior to final Town approval, it shall be demonstrated that the proposed storm water drainage facilities are adequate.

Section 4.12 Telecommunications Facilities**A. Intent and Purpose**

- (1) The Federal Telecommunications Act (“the Act”) was signed into law in February 1996. The passage of the Act, the increased sale of airwave rights and issuance of licenses by the FCC, the increased demand for wireless communication services, and new technology have led to a significant increase in the demand for telecommunications facilities within New York State. The Town of Great Valley has significant concerns over the location of telecommunication facilities within the Town. The 1996 Act preserves the authority of local governments over reasonable non-discriminatory decisions regarding the placement, construction, and modification of telecommunications facilities. It is the Town’s intent, through this section of the zoning law, to use its local authority over telecommunications facilities as provided for by the Federal Telecommunications Act of 1996.
- (2) The purpose of this Section is to set forth a means by which the Town can ensure that the installation of telecommunications facilities proceeds in a fashion that minimizes any adverse impacts while maximizing services and benefits to the community. The Town wants to accommodate the need for telecommunications facilities while regulating their location and number, minimize adverse visual effects through proper design, siting and screening, avoid potential physical damage to adjacent properties, and encourage joint use of such facilities.

- (3) In order to accomplish the purposes enumerated above, the Town encourages the placement of telecommunications antennas on suitable existing structures.
- (4) Telecommunications facilities may be permitted with a grant of special use permit, where permitted in Article 3 of this zoning code. However, the Town recognizes that circumstances may warrant the placement of a telecommunications facility in another area of the community, which will necessitate an application for a variance.

B. Review Authority

- (1) The Planning Board is hereby authorized to review and approve, or approve with modifications or disapprove special use permits for telecommunications towers, antennas, and facilities pursuant to this Law. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunications facility, including the use of camouflage of the tower structure and/or antenna to reduce visual impact.
- (2) Except as provided below, no telecommunications tower, antenna or facility shall hereafter be erected, moved, reconstructed, changed or altered and no existing structure shall be modified to serve as a telecommunication facility, except after obtaining a special use permit in conformity with this Law.
- (3) No special use permit shall be issued until the applicant provides proof that space on the facility has been leased or will be operated by a provider licensed by the FCC to provide service in the area.

C. Submission Requirements

All applicants for a special use permit for a telecommunications facility shall submit the following documents and information:

- (1) Special Use Permit Application
- (2) Site Plan Application
- (3) Project Participants
Provide the names, addresses, phone and fax numbers of the following involved parties, as appropriate:
 - Landowner of the project site to be purchased or leased
 - The service-provider (both the corporate information and a local contact). Include the FCC license number and certificate of need as a public utility
 - Engineering consultant

- Other authorized service providers proposing to co-locate on the tower now or in the near future.

Where co-location is proposed, provide the names, addresses and phone numbers of the current owner(s) of the tower, building or structure upon which the co-location was considered or is proposed.

(4) Site Description

Provide a narrative description of the proposed project site, including:

- Existing site improvements, including access, utilities, and the presence of existing towers, buildings, or other structures.
- Vegetative cover (plant cover types, tree types)
- Slopes
- Soils and depth to bedrock
- Wetland and surface water bodies; floodplains
- Site drainage
- Any special plant and animal habitats contained on the NYSDEC Natural Heritage Program database
- Any historic or archaeological resources on the site and any historic resources adjacent to the site.

Where co-location is proposed, provide to-scale site plans and elevations of the existing tower, building or structure to be used for co-location. Provide plans, elevations, and details showing the proposed electronic communication facilities and existing antennae located on the tower.

(5) Site Plan

Provide a detailed, labeled, and to-scale site plan that includes the following information. The site plan must be prepared by a qualified professional engineer licensed in the state of New York and must bear the preparer's signature.

- (a) Scale, north arrow, date and name of preparer
- (b) Project site boundaries (if part of a larger parcel, include a map of the larger parcel and the location of the area to be acquired or leased for the project).
A copy of an up-to-date property survey must be provided.
- (c) Abutting property owners' names and addresses
- (d) All bodies of water, wetlands, permanent or intermittent streams, floodplains
- (e) Existing and proposed topographic contours at two-foot intervals in and within 200 feet of all proposed areas to be disturbed.
- (f) All existing or proposed structures, buildings, towers, antennas, utility, roads, driveways, guy wires and anchors, parking.

- (g) The location and use of all structures on any adjacent property within fifty feet of the property lines, together with the distance of these structures to any proposed tower.
 - (h) Existing vegetation cover types and tree lines
 - (i) The proposed limits of vegetation disturbance and/or clearing related to the proposed construction of the site access, tower and accessory structures
 - (j) All trees 4 inches or greater in size (diameter at breast height, DBH) to be removed.
 - (k) All proposed planting and landscaping.
 - (l) All existing and proposed drainage and erosion control and stormwater management facilities.
 - (m) The location, nature and extent of any proposed fencing and/or screening
 - (n) The location and nature of proposed utility easements, if any.
- (6) Construction details
- Provide detailed construction plans and elevation of the proposed tower, antennae, equipment shelters (enclosed building, structure, shed, etc.). Show all foundations, piers, structural supports, cross arms, guy wires and anchors, antennae mounting mechanisms and signage. Label the size, material and provide color samples of all towers, antennae and accessory structures. All drawings shall be prepared by a qualified professional engineer licensed to practice in the State of New York, and shall contain his/her signature. Include the following:
- (a) The exact location of any proposed tower.
 - (b) The height of any proposed tower.
 - (c) A detail of the tower type (monopole, guyed, lattice, etc.).
 - (d) The color or colors of the tower.
 - (e) The location, type and intensity of any lighting on the tower.
- (7) Site access, construction and operation
- Describe the type, location and size of any road and/or driveway providing access to the proposed tower site. Describe any proposed temporary or permanent improvements, including any proposed vegetation removal, site drainage, crossing of streams or wetlands and installation of utilities and any impervious surfaces. Provide a grading plan for any new roads, driveways or accessways. Indicate the construction material (i.e. gravel, asphalt, etc.)
- (8) Telecommunications data
- (a) Describe the facility and technical, economic and other reasons for the facility and tower design.
 - (b) Provide “Before” and “After” propagation studies prepared by a qualified professional engineer, licensed in the state of New York, demonstrating

- existing signal coverage, contrasted with the proposed signal coverage resulting from the proposed telecommunications facility.
- (c) Provide a “Search Ring” prepared by a qualified professional engineer, licensed in the state of New York, and overlaid on an appropriate background map demonstrating the area within which the telecommunications facility needs to be located in order to provide signal strength and coverage (this meaning adequate coverage as opposed to desired coverage) to the target cell. The applicant must be prepared to explain to the Planning Board why it selected the proposed site, discuss the availability or lack of availability of a suitable structure within the search ring which would have allowed for a co-located antenna(s), and to what extent the applicant explored locating the proposed tower in a more intensive use district.
 - (d) Describe how many and what kinds of antennas are proposed.
 - (e) Describe how many and what kinds of antennas are possible on the tower.
 - (f) Demonstrate that the site can contain on-site substantially all ice-fall or debris from tower failure.
 - (g) Describe the fall zone of the proposed tower.
 - (h) For any telecommunications facility that will be placed on an existing structure or that will use an existing telecommunications tower, provide a letter certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing telecommunications tower, and explaining what modifications, if any, will be required in order to certify to the above.
- (9) A letter of intent committing the facility owner to negotiate in good faith for shared use by third parties in the future. This letter shall be filed with the Building Inspector prior to issuance of a building permit (assuming the telecommunications facility is approved). Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. This letter shall commit the facility owner and his successors in interest to:
- (a) Respond in a timely comprehensive manner to a request for information from a potential shared-use applicant.
 - (b) Negotiate in good faith for shared-use by third parties.
 - (c) Allowed shared use if an applicant agrees in writing to share charges.
 - (d) Make no more than a reasonable charge for shared use, based on generally accepted accounting principles. The charge may include, but is not limited to, a pro-rate share of the cost, site design, construction and maintenance, financing, return of equity, and depreciation, and all of the costs of adapting

the tower or equipment to accommodate a shared user without causing electromagnetic interference.

(10) Other regulatory permits and approvals

The applicant shall identify all permits or approvals necessary from local, state or federal agencies for this proposed project. Provide copies of written approvals and other permits received, including:

- (a) A copy of Applicant's Federal Communications Commission (FCC) license
- (b) A letter from the Federal Aviation Administration (FAA), stating any requirements that they may have (or lack of any requirements, if none are necessary).
- (c) The applicant shall submit to the Building Inspector copies of all licenses and permits required by other agencies with jurisdiction over the design, construction, location and operation of its Telecommunications Facility and applicant shall maintain such licenses and permits and provide evidence to the Building Inspector of renewal or extension thereof when granted.

(11) Environmental Review and Visual Impact Analysis

All applications for telecommunications facilities shall require a Full Environmental Assessment Form (EAF) and the Visual Addendum to the EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual Addendum which may include a map showing locations from which the facility may be seen, line – of – sight drawings, visual simulations of “before and after” views from viewpoints selected by the Planning Board, assessment of alternative tower designs and color schemes and assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

(12) All required fees.

(13) Any other material that the Planning Board deems necessary to evaluate the application.

The Planning Board may waive any particular submission requirement(s) it determines unnecessary for review of a particular project.

The Town of Great Valley, at the expense of the applicant, may employ its own consultant to review the findings and conclusions of safety analysis, visual analysis, structural inspection or other pertinent information provided by the applicant.

D. Findings

In order to grant a special use permit for a telecommunications facility, the Planning Board shall find that such facility conforms to all the criteria contained in this subsection, in addition to the criteria contained in Article 8, Special Use Permits, of this zoning law:

- (1) The facility is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities.
- (2) The facility is designed and will be constructed in a manner which minimizes visual impact to the maximum extent practical.
- (3) The facility is located in the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
- (4) The facility conforms to the standards contained in this section and in other sections of this zoning law, unless they are expressly superseded herein. These standards shall be considered the minimum requirements.

Any permit granted under this section shall be valid only for the number and type of antennas in the approval. Any increase in number or change in type of antennas on any existing tower shall be subject to a new application and additional approval by the Planning Board.

E. Co-location

- (1) The shared use of existing telecommunications towers or other structures shall be preferred to the construction of new facilities. Any special use permit application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within an existing telecommunication facility or upon an existing structure within a reasonable distance of the site. The applicant must demonstrate that the proposed telecommunication facility cannot be accommodated on existing telecommunication facilities due to one or more of the following reasons:
 - (a) The planned equipment would exceed the structural capacity of existing and approved telecommunication facilities or other structures, considering existing and planned use for those facilities.
 - (b) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.

- (c) Existing or approved telecommunications facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
 - (d) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures.
 - (e) The property owner or owner of the existing telecommunication facility or other structure refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.
- (2) The applicant must submit a copy of its policy regarding co-location on the proposed tower with other potential future applicants. Such policy should allow co-location on the proposed tower under the following conditions:
- (a) The new antenna(s) and equipment do not exceed structural loading requirements, interfere with space used or planned to be used by the applicant, nor pose any technical or radio frequency interference with existing equipment;
 - (b) The party desiring to co-locate pays the applicant an appropriate and reasonable sum to co-locate;
 - (c) The party desiring to co-locate has a similar policy of co-location for the applicant.

F. Visibility and Aesthetics

- (1) Telecommunication Facilities shall be located and buffered to the maximum extent which is practical and technologically feasible to help insure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effect on neighboring properties to the extent possible, the Planning Board may impose reasonable conditions on the applicant. These conditions may include specially designed towers, additional screening, greater setbacks, and improved landscaping to address aesthetic concerns.
- (2) The applicant shall demonstrate that the proposed height for the tower and antenna(s) is the minimum necessary to function satisfactorily. No tower or antenna(s) that is taller than this minimum height shall be approved.
- (3) Towers shall be painted to minimize visual intrusiveness, as determined by the Planning Board. In general, towers may be a galvanized finish or gray color above the surrounding treeline and gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding treeline, unless other standards are required by the FAA. Towers should be designed and sited

so as to avoid, whenever possible, application of FAA lighting and painting requirements. Accessory uses shall maximize use of building materials, colors, and textures designed to blend with the surrounding area.

- (4) The project shall be designed to blend with the natural and /or man-made surroundings to the maximum extent practicable.
- (5) Structures offering slender silhouettes (i.e. monopoles or guyed tower) may be preferable to freestanding lattice structures except where such lattice structures offer capacity for future shared use. The Planning Board may consider the type of structure being proposed, the surrounding area, and the potential for its effects on migratory and year-round bird populations; effects on bird populations shall be determined using relevant studies prepared by NYS Department of Environmental Conservation (NYSDEC) or by using methodologies approved by NYSDEC or similar agencies such as US Fish and Wildlife Agency.
- (6) No outdoor storage of equipment and/or vehicles shall be permitted on the facility site.
- (7) If co-location or the use of existing structures is not feasible, the Planning Board may require the applicant to show that he has made good faith efforts to construct the proposed new tower near existing towers in order to consolidate visual disturbances.

G. Lighting

Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). The Planning Board may choose the most appropriate lighting and marking plan from the options acceptable to the FAA at that location. The applicant must provide both standard and alternative lighting and marking plans for the board's review. Notwithstanding, an applicant may be required to add FAA-style lighting and marking, if, in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety. Lighting shall not consist of strobe lights, unless specifically mandated by the FAA. When lighting is required, it shall be oriented inward so as not to project onto surrounding property, to the maximum extent feasible.

H. Fall Zones

Telecommunications facilities shall be constructed so as to minimize potential safety hazards and shall be located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public streets, utility lines and other telecommunication facilities.

I. Setbacks

- (1) As a minimum requirement, all Telecommunication Facilities shall comply with all existing setbacks within the zoning district in which they are located. Setbacks shall apply to all tower parts, including guy wire anchors and to any accessory facilities. Additional setbacks may be required by the Planning Board to substantially contain on-site all icefall or debris from tower failure and/or to preserve the privacy of adjoining property.
- (2) A tower setback may be reduced in the sole discretion of the Planning Board to allow the integration of the tower into an existing structure, such as a church steeple, light pole or similar structure.

J. Vegetation and Screening

- (1) Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at breast height) shall take place prior to approval of the special use permit. Clear-cutting of all trees in a single contiguous area shall be minimized to the maximum extent possible.
- (2) The Planning Board may require appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, waterways, historic or scenic areas, other properties or public roads.

K. Access and Parking

An access road, turnaround and a minimum of one parking space shall be provided to assure adequate emergency and service access. The maximum use of existing roads, public or private, shall be made. New road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

L. Signage

The use of any portion of a telecommunication facility for signs for promotional or advertising purposes, including, but not limited to company name, phone numbers, banners, streamers, and balloons, is prohibited. A small sign shall identify the ownership of the facility and the telephone number for emergencies. The Planning Board may require the installation of signage with safety information, such as "No trespassing" or "Danger. Keep out."

M. Security

- (1) Towers, anchor points around guyed towers, and accessory structures shall each be surrounded by fencing not less than six (6) feet in height or otherwise sufficiently protected from trespassing or vandalism.
- (2) There shall be no permanent climbing pegs within fifteen feet of the ground.
- (3) Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site.

N. Engineering Standards

- (1) All telecommunication facilities shall be built, operated and maintained to acceptable industry standards, including but not limited to, the most recent applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
- (2) All towers shall be designed by a qualified professional engineer, licensed in the state of New York. Each application must contain a plan for the facility prepared by said engineer and containing his/her signature.
- (3) Telecommunications facilities may operate only at Federal Communications Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits. The Planning Board may require that the applicant provide competent documentation to support that maximum allowable frequencies, power levels and exposure limits for radiation will not be exceeded.
- (4) Each application for installation of an antenna shall include a certified statement prepared by a qualified professional engineer, licensed in the state of New York, that states that the installation of the antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and non-residential properties or with public safety telecommunications.
- (5) Every facility shall be inspected, at the owners' expense, at least every two (2) years for structural integrity by a qualified professional engineer, who is licensed to practice in the State of New York. A copy of the inspection report shall be promptly submitted to the Building Inspector. The structural inspection report shall describe the structural integrity of the facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspections indicate structural deficiencies, then the deficiencies must be remedied within

the time reasonably set by the Building Inspector. Failure to make the repairs may result in revocation of the special use permit.

O. Abandonment and Removal

- (1) All abandoned, obsolete or unused telecommunication facilities/towers shall be removed within twelve (12) months of cessation of use.
- (2) The owner of the telecommunication facility shall annually file a declaration with the Planning Board as to the continuing operation of every facility installed subject to this Zoning Law.
- (3) At the time of submission of the application for a telecommunication facility the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a telecommunication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve consecutive months. Upon removal, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
- (4) If a telecommunication facility has not been used for more than twelve months, and the tower owner has not removed the obsolete/closed facility in that period, the Town Board may declare the facility to be abandoned, and after due notice to the property owner and tower owner, may order the facility to be removed. Any cost incurred by the Town shall be added as a lien to the property's taxes.

P. Revocation of Special Use Permit

The Planning Board shall have the authority to revoke a special use permit for a telecommunications facility, after a public hearing, if the permittee fails to comply with any condition(s) of approval of the special use permit. The public hearing shall be held following the noticing and hearing requirements established in this zoning law for a special use permit application. If the special use permit is revoked, the telecommunications tower and associated facilities shall be removed and the site restored to the standards contained in Section 4.12 O(3), above within ninety (90) days of notification of the revocation of the permit by the tower operator.

Q. Expiration of Special Use Permit

The grant of Special Use Permit shall expire if construction of the telecommunications tower, antenna, and/or facility has not been completed within 18 months from the date of approval of the special use permit.

Section 4.13 Small-scale Wind Energy Conversion Systems (WECS)

A. Intent and Purpose

The Town of Great Valley recognizes that wind energy is an abundant, renewable and nonpolluting energy resource of the Town and that its conversion to electricity will reduce dependence on nonrenewable energy resources and decrease air and water pollution that result from the use of conventional energy sources.

The purpose of these regulations is to provide standards for Small-scale Wind Energy Conversion Systems (WECS) that are designed for on-site home, farm and small commercial use, and that are primarily used to reduce on-site consumption of utility power. The intent of this Section is to encourage the development of small scale WECSs and to ensure that development of these facilities will have a minimal impact on adjacent properties and to protect the health, safety and welfare of residents of the Town.

B. Application Process

- (1) Prior to construction of any small scale WECS, the project proponent shall first obtain Special Use Permit and Site Plan Approval from the Town of Great Valley Planning Board, and a Building Permit from the Town's Building Inspector.
- (2) In addition to the application requirements of Article 8 and Article 9, all applications for a small scale WECS shall include the following information:
 - (a) Name and address of the applicant
 - (b) Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.
 - (c) A site plan drawn in sufficient detail to show the following:
 - i. Location of the tower(s) on the site and the tower height, including blades, rotor diameter and ground clearance.
 - ii. Property lot lines and the location and dimensions of all existing structures and uses on site within 300 feet of the Wind Energy Conversion Systems.
 - iii. Dimensional representation of the various structural components of the tower construction including the base and footing.
 - iv. Certification by a licensed New York State Professional Engineer that the towers design is sufficient to withstand wind loading requirements for structures as established by the New York State Uniform Building and Fire Prevention Code.
 - (d) Evidence that the proposed tower height does not exceed the height recommended by the manufacture or distributor of the system, provided by a licensed New York State Professional Engineer.

- (e) Turbine information: Specific information on the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of the residential wind turbine and tower.
- (f) Photographs or detailed drawings of each wind turbine model, including the tower and foundation.
- (g) Grading plan and erosion and sedimentation control plan
- (h) A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Electrical Code adopted by New York State.
- (i) Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity from the grid.
- (j) Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.
- (k) Environmental Assessment Form
- (l) Such additional information as may be reasonably requested by the Planning Board for a complete understanding of the proposed project.

C. Criteria for Approval

In addition to the criteria contained in Article 8 and Article 9 of this Zoning Law, the Planning Board shall use the following criteria to evaluate all Small scale Wind Energy Conversion Systems:

- (1) Only one small scale WECS shall be allowed per lot. The system shall be primarily used to reduce the on-site consumption of electricity and at no times shall electricity be distributed across property lines.
- (2) **Setbacks**
The small scale WECS shall be set back a minimum of 1.5 times the total height of the WECS from:
 - (a) Any year-round residence in existence at the time the application is made.
 - (b) Property lines of the site on which the structure is located.
 - (c) The boundary of any RR or HCR Zoning District
 - (d) The right of way of public roadsIn lieu of compliance with these setbacks, the setbacks may be met through evidence of a recorded easement on adjacent lots, which will provide a permanent, dedicated fall zone on the adjacent lot(s).
- (3) **Maximum height:** The maximum overall height of any small scale wind energy conversion system shall be 150 feet. Height shall be measured from existing ground to the apex of the blade.
- (4) The maximum turbine output shall not exceed 100 kW per hour.

- (5) The WECS shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruption.
- (6) **Lighting:** Exterior lighting on any structure associated with the system shall not be allowed, except lighting that is specifically required by the Federal Aviation Administration (FAA).
- (7) **Signage:** No advertising sign or logo shall be placed or painted on any turbine or tower. The Planning Board may allow the placement of the manufacturer's logo on a ground level structure in an unobtrusive manner.
- (8) **Compliance with regulatory agencies:** The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction related to the construction of the small scale Wind Energy Conversion System. If all such approvals have not been received at the time that the Planning Board considers the application for Special Use Permit, receipt of these other agency approvals shall be a condition to be completed prior to the issuance of a Building Permit.
- (9) **Safety and security requirements:** The applicant shall adhere to the following safety and security requirements.
 - (a) **Safety shutdown:** Each wind turbine shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
 - (b) **Grounding:** All structures which may be charged with lightning shall be grounded according to applicable electrical code.
 - (c) **Wiring:** All wiring associated with the wind energy facility shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers or lines. This standard may be modified by the Planning Board if the terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
 - (d) **Ground clearance:** The blade tip of any wind turbine shall, at its lowest point, have ground clearance of not less than 30 feet.
 - (e) **Climbability:** Wind turbine towers shall not be climbable up to 25 feet above ground level and/or other appropriate method of access control shall be provided.

- (f) **Anchor points for guy wires:** Anchor points for any guy wires for a system tower shall be located on the property that the system is located on and not on or across any above ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence 6 feet high or sheathed in bright orange or yellow covering from to eight feet above the ground. The minimum set back for the guy wire anchors shall be 10 feet from the property boundary.
- (g) **Signage:** Appropriate warning signage shall be placed on wind turbine towers, and electrical equipment. Signage shall also include one (1) twenty-four-hour emergency contact numbers to the owner of the wind turbine as well as signage warning of electrical shock or high voltage and harm from revolving machinery.

(10) **Noise Standard**

- (a) **Audible noise standard:** Wind turbine operations shall not cause the noise level at the boundary of the proposed project site to exceed 45 dB(A) for more than five (5) minutes out of any one-hour time period or to exceed 50 dB(A) for any time period. If the ambient noise level in the vicinity of the WECS already exceeds this standard, the operation of the WECS shall not increase the nighttime or daytime ambient sound level at an adjacent residence by more than 3 dB(A).
- (b) **Low frequency noise:** A small-scale wind energy conversion system shall not be operated so that impulsive sound below 20 Hz adversely affects the habitability or use of any dwelling unit, hospital, school, library, nursing home, or other sensitive noise receptor.

(11) **Interference with television, microwave and radio reception**

The small-scale wind energy conversion system shall be operated such that no disruptive electromagnetic interference is caused. If it is demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.

(12) **Erosion Control**

Prior to granting a Special Use Permit for a small scale WECS, the Planning Board shall determine that the Erosion and Sedimentation Control Plan is adequate.

D. Abandonment of Use

- (1) All small scale WECSs shall be maintained in good condition and in accordance with all requirements of this section. The Building Inspector shall inspect each small scale WECS annually to insure compliance with this provision. If this inspection shows that the structure is unsafe, then the owner will be given an opportunity to bring the structure into compliance. If the structure is deemed unsafe and the owner does not bring the structure into compliance within a reasonable period of time, the tower shall be dismantled and removed from the property at the owner's expense. The Town reserves the right to dismantle the structure and to charge back the cost of this removal to the property owner. If unpaid this will be added as a charge to the tax levy of the property.
- (2) Failure to abide by and faithfully comply with the standards of this section and with any and all conditions that may be attached to the granting of the Special Use Permit shall constitute grounds for the revocation of the permit, after a public hearing.

E. Planning Board Action

- (1) The Planning Board may grant the Special Use Permit, deny the Special Use Permit, or grant the Special Use Permit with written stated conditions. Denial of the Special Use Permit shall be by written decision based upon substantial evidence submitted to the Board. Upon issuance of the Special Use Permit, the applicant shall obtain a building permit.
- (2) Prior to issuing a special use permit for a small-scale WECS, the Planning Board shall make all of the following findings:
 - (a) The proposed WECS project is consistent with the Town of Great Valley Comprehensive Plan.
 - (b) The proposed WECS project will not unreasonably interfere with the orderly land use and development plans of the Town of Great Valley.
 - (c) That the proposed WECS project will not be detrimental to the public health, safety or welfare of the community.
 - (d) That the proposed WECS project complies with all required provisions of the Town's Zoning Law, or will comply with those requirements based on conditions that may be attached to any approval, unless variances have been properly granted by the Town of Great Valley Zoning Board of Appeals.

F. Amendments to Approval

Any changes or alterations to the wind energy conversion system, after approval of the Special Use Permit and Site Plan, shall require amendment to the Special Use Permit. Such amendment shall be subject to all the requirements of this section.

Section 4.14 Adult Use Regulations

A. Purpose

Adult Uses, by their very nature, may have serious adverse secondary effects, particularly when located in close proximity to residential neighborhoods and other sensitive land uses. These adverse secondary effects are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. It has been acknowledged by communities across the nation that state and local governments have a special concern in regulating the operation of such businesses to ensure that these adverse secondary effects will not contribute to the blighting or downgrading of adjacent neighborhoods nor endanger the well-being of the youth in their communities. The Town of Great Valley Adult Use Study indicated that these effects may occur locally and therefore that the Town should enact provisions to regulate the secondary effects of adult uses.

The special regulations deemed necessary to control the undesirable secondary effects arising from these types of businesses are set forth below. The primary purpose of these controls and regulations is to preserve the integrity and character of residential neighborhoods, to deter the spread of blight, and to protect minors from objectionable characteristics of Adult Uses by restricting their proximity to churches, schools, parks, historic and scenic resources, civic and cultural facilities and residential areas.

The development and proliferation of unregulated Adult Uses may result in the deterioration of residential and business neighborhoods. If placed near schools and other youth-related facilities, Adult Uses may adversely affect the welfare of minors residing within the Town of Great Valley. When a concentration of Adult Uses locates in a business area, these uses may have an adverse effect on other types of businesses and therefore may cause blight. These regulations will help to ensure that adverse effects on the public health, safety, comfort, convenience and general welfare are mitigated. The provisions of this section have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, or to deny access by adults to adult materials.

B. Applicability

Adult Uses may be permitted by a grant of Special Use Permit by the Town of Great Valley Planning Board in the zoning district(s) so identified on the Land Use Table contained in Article 3 of this Zoning Law. However, no Special Use Permit will be granted unless the Planning Board finds that the proposed Adult Use complies with all the requirements contained in this Section and complies with all other applicable criteria in this Zoning Law.

C. Regulations

An adult use shall conform to the following requirements:

(1) Location and Separation Distances

- (a) An adult use shall be set back a minimum of 1000 feet from the right-of-way of New York State and US highways, including US Route 219, NYS Route 417, and I-86.
- (b) An adult use shall be set back a minimum of 500 feet from the right-of-way of any Town or County road.
- (c) No adult use shall be located within 500 feet of any church; place of worship; school; day care center; park or playground; state forest; civic facility; library; cemetery; historic resource; commercial recreation area, including, but not limited to ski area, snow tubing facility, water park, golf course or similar commercial recreational facility that minors may use; or recreation trail. This distance shall be measured in a straight line from the property line on which the sensitive use is located to the nearest property line of the parcel on which the adult use is proposed to be located.
- (d) No adult use shall be located within 500 feet from the boundary of any RR Rural Residential Zoning District or HCR Hamlet Commercial Residential Zoning District.
- (e) No adult use shall be located within 750 feet of any building currently in residential use, measured in a straight line from exterior building wall to closest exterior building wall.
- (f) No adult use shall be located within 250 feet of the side or rear property line of any parcel currently in residential use, measured from the closest exterior building wall of the proposed adult use to the closest side or rear property line.
- (g) No adult use shall be located within 1000 feet of another adult use, measured from exterior building wall to exterior building wall.

(2) Standards for Adult Uses

- (a) No adult use shall be located in any building that is used in whole or in part for residential uses. No residential use shall be established in any building that contains an adult use.
- (b) No more than one adult use shall be located on any lot.

- (c) An adult use shall not be permitted as an accessory use.
- (d) All building openings, including doors and windows shall be located, covered or screened in such a manner as to prevent a view into the establishment from any public street, sidewalk or parking area. Such screening shall be done in an aesthetically appropriate manner.
- (e) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas where they can be viewed from a public street or sidewalk adjacent to the establishment.
- (f) As a condition of approval of any adult use, there shall be a restriction that no person under the age of eighteen years shall be permitted into or on the premises.
- (g) No loudspeakers or sound equipment shall be used by the adult uses that can be heard by the public from outside the establishment.
- (h) All adult uses shall be conducted entirely in an enclosed building.
- (i) Adequate screening and buffering, to the satisfaction of the Planning Board, shall be provided to minimize the visual impact on adjacent properties from an adult use. This may be accomplished by landscaping, fencing or other means approved by the Planning Board.
- (j) If any adult use contains one or more Adult Viewing Booths, the booths shall be constructed in accordance with the standards in Section 4.15, Private Viewing Booths.

(3) Signage

As a condition of approval of any adult use, there shall be a restriction that there shall be no outdoor sign, display or advertising of any kind other than one identification sign limited to only the name of the establishment and one sign giving notice that the premises are off limits to minors. Such signs shall be reviewed by the Planning Board in conjunction with the Special Use application and shall conform to all applicable signage requirements of this zoning law.

Section 4.15 Private Viewing Booths

Where permitted as part of a commercial use that has a valid special use permit issued pursuant to Article 8 of this Zoning Law, all private viewing booths shall conform to the following standards:

- (1) Each booth shall be totally accessible to and from aisles and public areas of the establishment. Access to a booth shall be unrestricted by doors, locks, or other control-type devices.
- (2) Each booth shall have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth. Visibility shall not be blocked by doors, curtains, partitions, drapes or any other obstruction.
- (3) Each booth shall be separated from adjacent booths and any nonpublic areas of the establishment by a solid wall, which shall extend from the floor to the ceiling.

ARTICLE 5

NON-CONFORMING LOTS, BUILDINGS AND USES

Section 5.1 Purpose

The purpose of this article is to describe and define the status of land uses, buildings and/or structures, and lots that were lawfully established before these regulations were passed or amended, but which are now or became prohibited, restricted or substandard. Although lawfully created, pre-existing, non-conforming uses and structures may continue, this Article is intended to limit enlargement, alteration, restoration or replacement of such non-conforming uses and structures, which would increase the discrepancy between existing conditions and the development standards prescribed by this Law.

Section 5.2 Continuation of Use

Except as otherwise provided herein, any lawfully established use of a building, structure or land, existing at the time of the enactment of this local Zoning Law or amendments thereto may be continued, even though such use does not conform with the provisions of this Code. However, such non-conforming use shall not be enlarged, altered, or extended, except in accordance with the provisions of this Article.

Section 5.3 Discontinuance of Use

- A.** Whenever any part of a building, structure or land occupied by a non-conforming use is changed to or replaced by a use conforming to the provisions of this Code, such premises shall not thereafter be used or occupied by a non-conforming use.
- B.** Discontinuance of the non-conforming use for a period of twelve consecutive months shall constitute abandonment of such use. Whenever a non-conforming use of a building, structure, or lot or part thereof, has been discontinued for a period of twelve consecutive months, such use shall not be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district in which it is located.

Section 5.4 Change of Use

The non-conforming use of any building, structure, lot or portion thereof may be changed, with the approval of the Zoning Board of Appeals, to another non-conforming use of a more restricted classification, and when so changed shall not thereafter be changed to a less restricted classification, including back to the original non-conforming use.

Section 5.5 Repairs and Alterations

- A.** Normal maintenance of a non-conforming building or structure is permitted. However, unless changed to a conforming use, such building or structure may not be reconstructed or substantially improved to an extent exceeding in aggregate cost fifty (50) percent of the market value of the building or structure. (Market value shall be determined by dividing the assessed value by the equalization rate.)
- B.** A building or structure that does not meet the dimensional requirements of this Zoning Law may not expand such that the setbacks or other dimensional requirements become more non-conforming, unless an area variance for such expansion is granted by the Zoning Board of Appeals.

Section 5.6 Restoration, Reconstruction, and/or Rehabilitation

No building or structure damaged by fire, flood or other causes to the extent of more than fifty (50) percent of its market value shall be repaired, rebuilt, restored, reconstructed or rehabilitated except in conformity with the regulations of this zoning Law. (Market value shall be determined by dividing the assessed value by the equalization rate.) All damaged buildings or structures must be repaired or razed within a period of twelve months from the date the damage occurred.

Section 5.7 Extension

A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building designed or manifestly arranged for such use, which existed prior to the enactment of this Zoning Law, shall not be deemed the extension of such non-conforming use.

Section 5.8 Lots of Record

- A.** Any lot of record, which legally existed at the time of the initial adoption of this Zoning Law, or which was legally created under the provisions of any Zoning Law that was in effect at the time the lot was created, and which does not meet the requirements for minimum lot width and/or minimum lot size or any other dimensional regulations that now apply, may be used for a permitted use.
- B.** If the lot of record is so substandard in terms of the current dimensional requirements that it is impossible to construct a structure that conforms to the current setback, yard and other dimensional requirements, a structure that is intended to contain a conforming use may be constructed, without first obtaining an area variance, provided that the minimum setback requirements are not less than 75 percent of the minimum required dimensions and that the maximum lot coverage is not more than 75 percent of the requirement.

ARTICLE 6

ADMINISTRATION AND ENFORCEMENT

Section 6.1 General Procedure

All persons desiring to undertake any new construction, structural alteration, or change in the use of a building or lot shall apply to the Zoning Officer for a Zoning Permit by filing the appropriate application form and by submitting the required fee. The Zoning Officer will then either issue or deny the Zoning Permit or refer the application to the Planning Board. If the application for a Zoning Permit is denied, the applicant may appeal this decision to the Zoning Board of Appeals.

No building or structure shall be erected, added to, or structurally altered until a zoning permit therefore has been issued by the Zoning Officer. Except upon written approval of the Zoning Board of Appeals, no Zoning Permit shall be issued for any building where said construction, addition, or change of use thereof would be in violation of any of the provisions of this local law.

After the Zoning Permit has been received by the applicant, he/she may proceed to undertake the action permitted in the Zoning Permit and upon completion of such action, shall apply to the Zoning Officer for a Certificate of Zoning Compliance, which, upon issuance, will allow the premises to be occupied.

Section 6.2 Zoning Officer

This Local Law shall be enforced by a Zoning Officer, who shall be appointed by the Town Board. The powers and duties of the Zoning Officer shall include the following:

- A.** Examine applications pertaining to the use of land, buildings, and structures for compliance with the provisions of this local law.
- B.** Receive, file and forward for appropriate action all applications for special uses, site plans, variances and amendments to this law.
- C.** Insure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required, before issuing a local permit.
- D.** Issue Zoning Permits, when all provisions of this local law have been complied with. For purposes of this section, the Zoning Officer's signature on a joint Building Permit/Zoning Permit Application shall be considered to be an issued Zoning Permit.

- E. Conduct such inspections of buildings, structures and use of land as are necessary to determine compliance with the provisions of this zoning law.
- F. Investigate complaints of potential violations that are reported in writing and investigate potential violations that he/she may observe.
- G. Upon request by the subject board, review applications and make recommendations to the Town Board, Planning Board and Zoning Board of Appeals. When requested by the Chair of the respective boards, attend meetings of the Planning Board, Zoning Board of Appeals and the Town Board.
- H. The Zoning Officer shall maintain a permanent record of every administrative decision that he/she makes and shall maintain a copy of each permit that he/she issues.
- I. Perform any other duties that may be established by the Town Board.

Section 6.3 Zoning Permits

A. Zoning Permit Types. The Zoning Officer may issue the following types of Zoning Permits:

- (1) **Permitted Use.** A Zoning Permit for a permitted use may be issued by the Zoning Officer on his/her own authority.
- (2) **Special Permitted Use.** A Zoning Permit for a Special Permitted Use may be issued by the Zoning Officer upon approval by the Planning Board, after a public hearing held by the Planning Board for the purpose of receiving information regarding the application for a Special Use Permit, pursuant to Article 8 of this Zoning Law.
- (3) **Zoning Permit after an Appeal or a Request for a Variance.** A Zoning Permit may be issued by the Zoning Officer upon the approval by the Zoning Board of Appeals, after a public hearing held by the Zoning Board of Appeals for the purpose of receiving information regarding the appeal or request for a variance pursuant to Article 7 of this Zoning Law.
- (4) **Zoning Permit after Site Plan Review.** A Zoning Permit may be issued by the Zoning Officer upon the approval by the Planning Board, after approval of an application for Site Plan Review, pursuant to Article 9 of this Zoning Law.

B. Application for Zoning Permits

- (1) **Information Necessary for Application.** All applications for Zoning Permits shall include two copies of a plot plan drawn to scale showing the actual

dimensions of the lot to be built upon; the exact size and location of any existing buildings or structures; the exact size and location of the proposed buildings, structures and accessory buildings; the proposed use of the lot and structures; and such other information as may be necessary to determine and provide for the enforcement of this local law, as determined by the Zoning Officer.

(2) **Zoning Officer's Determination**

- (a) **Issuance of Permit.** If the Zoning Officer determines that all requirements of this local law are satisfied, or upon order by the Planning Board or Zoning Board of Appeals, the Zoning Officer shall issue a Zoning Permit, provided that all other reviews and actions, if any are called for in this law, have been complied with and all necessary approvals have been obtained.
- (b) **Referral of Permit.** If the Zoning Officer determines that the proposed project requires special use permit or site plan review and approval by the Planning Board, he/she shall refer the application to that Board and shall so notify the applicant. In this instance the Zoning Officer shall take no action on the Zoning Permit application until the Planning Board has made a determination and notified the Zoning Officer of that determination.
- (c) **Denial of Permit.** When the Zoning Officer is not satisfied that the applicant's proposed development will meet the requirements of this local law, he/she shall deny the application for a Zoning Permit. The applicant may appeal to the Zoning Board of Appeals for a reversal of the Zoning Officer's decision.

(3) **Filing of Decision**

- (a) The Zoning Officer shall return one copy of the plot plan to the applicant, along with the Zoning Permit, or with a written denial of the zoning permit, which shall state the reasons for such denial. The Zoning Permit may be incorporated into other permits issued by the Town, such as a Building Permit.
 - (b) The Zoning Officer shall retain the second copy of the plot plan, along with the application and a copy of his/her determination, as a permanent record.
 - (c) The Zoning Officer shall file in his/her office a copy of each decision, determination, interpretation, order, and/or requirement that he/she makes, within five business days from the day it is rendered. A copy of such decision shall be filed with the Town Clerk simultaneously.
- (4) **Expiration of Zoning Permit.** A Zoning Permit shall run concurrently with any building permit that is issued as part of the same application and shall expire

when the building permit expires. If no building permit is issued, the Zoning Permit shall expire one year from the date of issuance.

(5) **Revocation of Zoning Permits**

- (a) If it shall appear, at any time, to the Zoning Officer that the application or accompanying plot is in any material respect false or misleading, or that work being done upon the premises differs materially from that called for in the approved application, he/she may forthwith revoke the Zoning Permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to said Zoning Officer.
- (b) When a Zoning Permit has been revoked, the Zoning Officer may, at his/her discretion, re-issue the Zoning Permit, after he/she is satisfied that the work will comply with the Permit as originally issued. Before re-issuing the Zoning Permit, the Zoning Officer may require the applicant to file an indemnity bond in the favor of the Town with sufficient surety conditioned for compliance with this law and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

C. Criteria for Zoning Permits

- (1) **Compliance with Zoning Law.** Before issuing a Zoning Permit, the Zoning Officer shall ensure that the proposal conforms to all requirements of this Zoning Law, including, but not limited to, height limitations, setback requirements and use regulations, unless a determination has been made by the Zoning Board of Appeals that grants a variance from such compliance.
- (2) **Water Supply and Sewage Disposal.** Before issuing a Zoning Permit, the Zoning Officer shall determine that the proposal has adequate water supply and sewerage disposal systems, whether through municipal services, private services, or through individual wells and septic systems. For private systems, a Permit to Construct from the Cattaraugus County Health Department shall be adequate to meet this requirement.
- (3) **Access to Street.** Before issuing a Zoning Permit, the Zoning Officer shall determine that the site has adequate, legal access to a public or private street. Such legal access may be provided by an easement. The Zoning Officer may require the applicant to present a recorded agreement verifying that such easement has been legally recorded in the Office of the Clerk of Cattaraugus County, and will provide legal access for the use being granted by the Zoning Permit.

Section 6.4 Certificate of Zoning Compliance

Within fifteen (15) days of completion of any structure, alteration, or other work authorized in the Zoning Permit, the applicant shall apply to the Zoning Officer for a Certificate of Zoning Compliance. No building or structure shall be occupied until the Zoning Officer issues a Certificate of Zoning Compliance.

Upon receipt of an application for Certificate of Zoning Compliance, the Zoning Officer shall inspect the premises to insure that all work was conducted as stated in the Zoning Permit. This inspection shall be coordinated with the inspection required by Section 9.10 of this local law, if any.

Upon a finding that the work complies with the Zoning Permit, the Zoning Officer shall issue the Certificate of Zoning Compliance, within thirty (30) days after the application is received. The Certificate of Zoning Compliance shall state that all work completed is in compliance with the provisions of this law, and shall reference any variances or other permits that may have been issued. The Certificate of Zoning Compliance may be incorporated into any other permit issued by the Town, such as a Certificate of Occupancy.

Section 6.5 Violations and Penalties

A. Enforcement Official

The Zoning Officer is hereby designated as the Town official who is charged with the administration and enforcement of this local Zoning Law. The Zoning Officer is authorized to make inspections of property, to respond to complaints, to issue Notices of Violations and to issue Appearance Tickets, where necessary to enforce the provisions of this zoning law. The Town Board may designate other officials as deputy enforcement officials to help in the enforcement of the provisions of this law.

B. Complaints of Violations

- (1) Any person may file a complaint with the Zoning Officer that a violation of this law may have taken place or is allegedly taking place. All complaints shall be in writing and shall specify the property on which the alleged violation has occurred.
- (2) The Zoning Officer shall record and investigate any such written complaint.
- (3) The Zoning Officer may also investigate any alleged violation that he/ she has reason to believe has occurred or is occurring.

C. Inspection

- (1) Whenever a complaint has been filed, or whenever it shall appear that the provisions of this local law are being violated, the Zoning Officer shall investigate the complaint. Except in cases where the alleged violation is in plain view and/or where no entry is necessary, or except in cases where an imminent peril exists as determined by the NYS Uniform Fire and Building Code, the Zoning Officer shall obtain approval from an owner, lessee, agent, tenant, or other person with authority to make an inspection of the property. However, if the property owner, lessee, agent or tenant does not grant permission for such inspection, this refusal shall be an adequate basis for revoking the zoning permit.
- (2) Following the inspection of the property, the Zoning Officer shall file a written report, which shall detail the findings of his/her inspection, with the Town Board. If the inspection was the result of a complaint, a copy of the report shall be sent to the person who filed the complaint.

D. Notice of Violation

- (1) If the Zoning Officer finds that a violation of this local law exists on the property, he/she shall prepare a written Notice of Violation which shall contain the following information:
 - (a) The name of the owner or occupant to whom the Notice is addressed
 - (b) The location of the premises involved in the violation
 - (c) A statement describing the condition of the premises at the time of the inspection, and showing in which way the premises is in violation of this local law
 - (d) A demand that the violation be remedied to comply with this local law. The Notice shall set a reasonable time period for compliance. (For example, within 15 days of the date of the Notice of Violation.)
 - (e) A statement that a failure to comply with the demand may result in prosecution.
- (2) The Notice of Violation shall be served by personal service or by certified mail, return receipt requested, addressed to the last known address of the property owner or occupant.
- (3) **Extension.** Upon application of the owner or occupant showing reasonable cause, the Zoning Officer may grant an extension of up to thirty days for the owner or occupant to comply with the Notice of Violation.

E. Stop Work Order

Along with the Notice of Violation, the Zoning Officer may also revoke the Zoning Permit, issue a Stop Work Order and/or revoke the Building Permit for any construction that may be on-going.

F. Appearance Ticket

If, after the expiration of the time period specified in the Notice of Violation, or after the completion of any extension period, the owner or occupant shall fail to comply with the requirements of this law, the Zoning Officer or Town Board may institute enforcement procedures as follows:

- (1) The Zoning Officer is hereby authorized, pursuant to Criminal Procedure Law Section 150.20 (3), to issue an appearance ticket to any person whom the enforcement officer has reason to believe has violated this law, and shall cause such person to appear before the local court.
- (2) After the appearance ticket has been issued, the Zoning Officer shall file an Information and Supporting Deposition with the local justice.

G. Penalties

- (1) A violation of this local law is hereby declared to be an offense, punishable, for a conviction of a first offense, by a fine of not more than three hundred fifty dollars (\$350.00) or by imprisonment for a period not to exceed six months or both; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six months, or both.
- (2) Each week's continued violation shall constitute a separate additional violation and shall be punishable as a separate offense.

H. Other Remedies

- (1) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used, or any land is divided into lots, blocks or sites in violation of this local law, the Town Board, in addition, to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction,

alteration, repair, conversion, maintenance, or use, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

- (2) The Town Board reserves the right to seek a court order to have the violation corrected by the Town. Upon the failure of the property owner to comply with the Notice of Violation within the time specified therein, the Zoning Officer shall notify the Town Board. The Town Board may direct an appropriate Town employee or agent to cause such premises to be put in such condition as will comply with this local law and shall charge the costs thereof to the owner of said premises.
 - (a) Bills shall be paid within thirty (30) days from the date of such bills. The owner of the premises shall be held responsible and liable for all charges for such services. Failure to pay within the aforementioned designated time shall be deemed a violation of this statute and punishable therefore.
 - (b) If the bill is not paid, the cost shall be charged to the property so affected by including such expense in the next annual tax levy against the property.
- I. The provisions of this Article shall not limit the available procedures for enforcement and remedies provided for under the Town Law of the State of New York or any other applicable law.

ARTICLE 7

ZONING BOARD OF APPEALS

Section 7.1 Organization

A. Appointment

- (1) The Town Board of the Town of Great Valley, pursuant to the provisions of NYS Town Law applicable thereto, shall appoint a Zoning Board of Appeals consisting of five members. The terms of office shall be five years, excepting that the five members first appointed shall serve for terms of one, two, three, four and five years. All terms of office shall expire at the end of the calendar year. Members of the Town Board are not eligible for membership on the Zoning Board of Appeals.
- (2) The Town Board shall designate the chairperson of the Zoning Board of Appeals. In the absence of a chairperson, the Board of Appeals may designate a member to serve as acting chairperson.

B. Vacancies

If a vacancy shall occur otherwise than by expiration of term, the new member shall be appointed for the unexpired term.

C. Training and Attendance Requirements

Members of the Zoning Board of Appeals shall comply with the training provisions of NYS Law. In addition, the Town Board may establish minimum requirements for attendance at Zoning Board of Appeals meetings.

D. Removal from Office

The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board.

E. Expenses

The Town Board may provide for compensation to be paid to experts, clerks and a secretary, and may provide for such other expenses as may be necessary and proper.

Section 7.2 Powers and Duties

A. Powers

With due consideration for the purpose and intent of this Zoning Law, and without limiting the powers with which the Board is vested by Section 267 of NYS Town Law, the Zoning Board of Appeals shall have the power and authority to:

- (1) Hear and determine appeals from and review any order, requirement, decision or determination made by the Zoning Officer charged with the enforcement of this Code. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the Zoning Officer.
- (2) Hold a public hearing and approve or deny each application for a use or area variance.
- (3) Revoke any decision to grant a variance after a public hearing, if the owner/applicant fails to comply with any conditions of approval of the original application.

B. Duties of the Chairperson

- (1) All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson, and at such other times as the Zoning Board of Appeals may determine.
- (2) The chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

C. Minutes and Records

- (1) **ZBA Minutes:** The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. The minutes shall include the reasons for all decisions, and any conditions of approval.
- (2) **Zoning Officer's Records:** Each order, requirement, decision and interpretation or determination of the Zoning Officer shall be in writing and shall be filed in the office of that Officer within five business days from the day it is rendered. Such determination shall be a public record.

D. Assistance to Board of Appeals

- (1) The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board.
- (2) For unique or large-scale projects, the Zoning Board of Appeals, upon approval from the Town Board may retain qualified expert consultants to assist the Board of Appeals in its review of the application; the cost of such consultant(s) shall be paid by the applicant.

Section 7.3 Variances

The Zoning Board of Appeals may issue a variance for any use of structures or lots (use variance) or for any dimensional or physical regulations (area variance) in the Town, provided such variance complies with the standards set forth in NYS Town Law and in this section and with the special requirements enumerated elsewhere herein. Each case must be determined on its own merits.

A. Use Variances

- (1) In order for the Zoning Board of Appeals to grant a use variance, the applicant shall show that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence;
 - (b) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (c) That the requested use variance, if granted, will not alter the essential character of the neighborhood;
 - (d) That the alleged hardship has not been self-created.
- (2) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. Area Variances

- (1) In making its determination on an application for an area variance, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance were granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
 - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 - (c) Whether the requested area variance is substantial.
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.
- (2) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. Imposition of Conditions

The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

D. Expiration of Grant of Variance

- (1) A variance shall expire one (1) year from the date of approval if a building permit has not been issued or if use of the property in accordance with the grant of variance has not commenced, in cases where a building permit is not needed. The Zoning Board of Appeals may grant an extension of the variance for up to one additional year when the applicant is able to demonstrate a legitimate need

to delay the start of construction or operation, such as inclement weather, delays in financing, or similar factors.

- (2) A variance shall expire if the use of the property in accordance with the grant of a variance shall cease continuously for one (1) year.
- (3) Nothing in this section shall be construed to prohibit the Zoning Board of Appeals from requiring, as a condition of approval, that a variance be renewed periodically.

Section 7.4 Application Procedures

A. Application and Filing of Appeals

- (1) Any party aggrieved by a decision of the Zoning Officer shall have sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Officer to file an appeal with the Zoning Board of Appeals.
- (2) Such appeal shall be in writing, on forms prescribed by the Zoning Board of Appeals and shall specify the grounds for the appeal and the relief sought. Every appeal shall refer to the specific provision of this Law that is involved and shall exactly set forth the interpretation that is claimed or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. The appeal shall also contain the following information:
 - (a) The name and address of the appellant /applicant, and property owner, if different from the applicant. If the applicant is not the owner of the property, the applicant shall submit a statement from the property owner that gives his/her permission for the application to be submitted.
 - (b) A brief description and the location of the lot to be affected by such proposed change or appeal.
 - (c) A statement of the present zoning classification of the lot in question, the improvements thereon, and the present use.
 - (d) An accurate description of the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof.
 - (e) A plot plan of the site, drawn to scale, with a north arrow, indicating the location and size of the lot and location and size of the improvements thereon and proposed to be erected thereon. Distance from the existing and

proposed structure to all lot lines shall be indicated. If the Zoning Board of Appeals determines that it is necessary, the Board may require a survey prepared by a licensed surveyor that shows building locations and lot lines.

- (f) An Environmental Assessment Form, with Part I completed and signed by the applicant, if required.
 - (g) All required fees.
- (3) The appeal shall be filed with the Zoning Officer, who shall transmit to the Zoning Board of Appeals copies of all the papers constituting the record of the appealed action.

B. Public Hearing

- (1) Before acting on any matter appealed to it, the Zoning Board of Appeals shall hold a public hearing. The public hearing shall be held within 62 days of the date that the complete application/ appeal is received. The Zoning Board of Appeals shall determine when the application/appeal is complete.
- (2) The Zoning Board of Appeals shall provide notice of the public hearing in the following ways:
 - (a) By publication in the official newspaper of the Town at least five days prior to the date of the public hearing.
 - (b) By mailing a notice to the owner of record of all abutting properties. For purposes of this section, parcel(s) that are immediately across the street shall be construed to be abutting. The notice shall be mailed at least ten (10) days prior to the hearing.
 - (c) By mailing a notice to the applicant at least ten (10) days prior to the hearing.
 - (d) For all appeals that meet the requirements contained in Section 239m of NYS General Municipal law, the Zoning Board of Appeals shall mail notice of such hearing to the Cattaraugus County Planning Board. Such notice shall be mailed at least five (5) days prior to the public hearing, and shall be accompanied by a full statement of the proposed action.
 - (e) If the site that is the subject of the appeal is located within 500 feet of a regional state park, the Zoning Board of Appeals shall mail notice of the public hearing to the regional state park commission a minimum of five (5) days prior to the public hearing.

(f) If a parcel, that is the site of a requested use variance, is within 500 feet of a municipal boundary, the Zoning Board of Appeals shall mail notice of the public hearing to the clerk of the municipality at least 10 days before the date of the public hearing.

(3) At the public hearing any person may appear in person, or by agent or by attorney.

C. Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Officer certifies to the Zoning Board of Appeals, after the notice of appeal has been filed, that by reason of facts stated in the certificate, they would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Supreme Court on application, on notice to the Zoning Officer and on due cause shown.

D. Decision

- (1) The concurring vote of a majority of the total membership of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer or to grant a use variance or area variance.
- (2) The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days of the public hearing at which the matter was considered. The time within which the board must render its decision may be extended by mutual consent of the applicant and the board.

E. Filing Of Decisions and Notice To The Applicant

- (1) The decision of the Zoning Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days and shall be a public record. A copy of the decision shall be provided to the Zoning Officer and the Building Inspector.
- (2) A copy of the decision of the Zoning Board of Appeals shall be mailed to the applicant/appellant within five (5) business days of the decision.
- (3) The decision shall contain the reasons for the decision and shall list all conditions of approval, if any.

F. Rehearing

A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any

member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith reliance upon the reheard order, decision or determination will not be prejudiced thereby.

G. Abandoned Application

An application will be deemed abandoned and will be denied if there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional material is requested by the Zoning Board of Appeals, whichever is later. "No activity" means that the applicant is not diligently providing the Town with information necessary to proceed with review of the application, including materials and/or information that are required by this Law or by the requirements of the State Environmental Quality Review Act.

H. Compliance with Conditions of Approval

The applicant shall comply with all conditions of approval prior to the issuance of a Certificate of Compliance. However, the Zoning Board of Appeals may authorize the Zoning Officer to issue a temporary Certificate of Compliance if a performance bond has been posted in an amount sufficient to guarantee completion of the project as approved. The Board of Appeals shall establish a maximum period of time during which the temporary Certificate of Compliance is valid. The issuance of a temporary Certificate of Compliance may be warranted, for example, in cases where the timing of the completion of construction does not allow adequate time to complete all required landscaping prior to the onset of winter weather. In such cases a performance bond is needed to ensure that the proposed development will be built in compliance with the approved special use permit. The sufficiency of such performance bond shall be determined by the Town Board, after consultation with the Zoning Board of Appeals, Town Engineer, Town Attorney, Zoning Officer, and/or other appropriate parties.

I. Revocation of Grant of Variance

The Zoning Board of Appeals shall have the authority to revoke the approval of a use or area variance, after a public hearing, if the property owner or project sponsor fails to comply with any condition(s) of approval of the variance. Prior to a public hearing on this issue, the Zoning Officer shall pursue abatement of the failure to comply as a violation in accordance with Article 6 of this Zoning Law.

ARTICLE 8 SPECIAL USE PERMITS

Section 8.1 Purpose

The purpose and intent of the review of applications for Special Use Permits is to allow the proper integration into the community of uses which may be suitable only under certain conditions and at appropriate locations. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, special uses require careful consideration so that they may be properly located and conditioned in order to minimize their effect on nearby properties and to comply with the objectives of this zoning law.

Section 8.2 Authorization to Grant Special Use Permits

- A.** The Planning Board shall hear and determine all applications for Special Use Permits for uses that are so listed in Article 3 and elsewhere in this law. After evaluating the application using the criteria established in this Article and considering the intent and purpose of this local zoning law, the Planning Board may approve, approve with conditions or deny the application for Special Use Permit.
- B.** If the application is approved, the Planning Board may impose any reasonable conditions and restrictions that are directly related to and incidental to the proposed special use. Such conditions must be met in connection with the issuance of other Town permits, such as a Zoning Permit or Building Permit.
- C.** The Planning Board may approve a temporary Special Use permit subject to adequate guarantees that the use covered will be terminated at the end of the period specified or such extension thereof as may be granted by said Board, provided that any such renewal or extension shall be subject to the same procedure specified herein for the original issuance of the special use permit involved.

Section 8.3 Application Materials

- A.** An applicant for a Special Use Permit shall submit a completed application, on a form provided by the Town, to the Zoning Officer, who shall forward it to the Planning Board.
- B.** The application shall contain the following information and materials:
 - (1) An application for a Zoning Permit.

- (2) An application for Site Plan Review, with all required application materials.
- (3) Stormwater Management Plan
- (4) A written statement, which shall contain the following information:
 - The tax map number of the parcel or parcels on which the project will occur, and the name of the owner of record for those parcels.
 - A general description of the project, including the nature of the use and anticipated hours of operation.
 - A list of any encumbrances, covenants or easements on the property.
 - A development schedule indicating phased development, if any, and the estimated completion date for the project.
- (5) If the applicant is not the owner of the property, the applicant shall submit a statement from the property owner that gives his/her permission for the application to be submitted.
- (6) All required fees
- (7) Environmental Assessment Form, with Part I completed and signed by the applicant.
- (8) Any other information that the Planning Board determines is necessary for a meaningful review of the application, based on the nature of the project or the site.
- (9) The Planning Board may waive any particular submission requirement(s) it determines unnecessary for review of a particular project

Section 8.4 Standards for Review of Special Use Permit Applications

- A. Consistency with Other Plans and Laws.** The Special Permitted Use shall be in conformance with this Local Law, the Town's Comprehensive Plan and all other applicable laws, ordinances and regulations.
- B. General Standards.** The Special Permitted Use shall conform to the following standards:
 - (1) The proposed project is consistent with the Town's Comprehensive Plan and any amendments thereto.
 - (2) The proposed project is in harmony with the general purposes and intent of this Zoning Law and complies with all applicable requirements of this Code.

- (3) The proposed project is compatible with the surrounding neighborhood in terms of use and scale and does not adversely affect the character of the surrounding neighborhood.
- (4) The proposed use is of such character, size and location that in general it will be in harmony with the orderly development of the neighborhood in which the property is situated, and will not be detrimental to the orderly development of adjacent areas.
- (5) The proposed use will not alter the essential character of the neighborhood nor be detrimental to the residents thereof. A permit for a special use in a residential area shall only be granted when it is clearly obvious that the special use will not unreasonably impair the use, enjoyment and value of adjacent residential properties, and that any vehicular traffic generated will not be hazardous or otherwise detrimental to the prevailing residential character of the neighborhood.
- (6) A Special Use permit for a use in a commercial or industrial district shall only be granted when it is clearly obvious that such use will be harmonious with the area in which its location is sought and will not create undue pedestrian or vehicular traffic hazards or any display of signs, noise, fumes, smoke, dust or lights that will hinder the normal development of the area or impair the use, enjoyment and value of adjacent land and buildings.
- (7) If located near any parcel being used for an agricultural activity, the proposed use will not unduly adversely affect the pre-existing agricultural use.
- (8) The proposed project will not be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of such proposed use or will not be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town.
- (9) The size and location of the site are adequate for the use proposed.
- (10) Essential infrastructure and community services, such as streets, police and fire protection, emergency vehicle access, water supply and sewerage disposal systems, exist to adequately serve the proposed project or will be provided on-site by the applicant. All on-site water supply and sewerage disposal systems shall be approved, in writing, by the appropriate authority, before a building permit will be issued.
- (11) The proposed project will not unduly increase traffic volumes or unduly affect traffic flow or safety in the vicinity of the site. The capacity of the existing street system is adequate to handle the anticipated traffic from the proposed project.

- (12) The proposed project will not generate excessive noise, odor, dust, smoke or vibrations.
- (13) The Stormwater Management Plan, when required by the Planning Board, is in conformance with state standards.
- (14) The proposed project will not result in the destruction, loss or damage of a natural, scenic or historic feature of major significance.
- (15) Any proposed open space is usable for the purpose for which it is proposed. Adequate legal provision has been made such that these areas will remain as permanent open space. Adequate provisions have been made for the maintenance of the open space areas.

Section 8.5 Application Procedure

A. Public Hearing

- (1) The Planning Board shall hold a public hearing on the application within sixty-two (62) days from the date the complete application is received. The Planning Board shall determine when the application is complete.
- (2) The Planning Board shall provide notice of the public hearing in the following ways:
 - (a) By publication in the official newspaper of the Town at least five days prior to the date of the public hearing.
 - (b) By mailing a notice to the owner of record of all abutting properties. For purposes of this section, parcel(s) that are immediately across the street shall be construed to be abutting. The notice shall be mailed at least ten (10) days prior to the hearing.
 - (c) By mailing a notice to the applicant at least ten (10) days prior to the hearing.
 - (d) For all applications that meet the requirements contained in Section 239m of NYS General Municipal law, the Planning Board shall mail notice of such hearing to the Cattaraugus County Planning Board. Such notice shall be mailed at least ten (10) days prior to the public hearing and shall be accompanied by a full statement of the application.
 - (e) If the site that is the subject of the application is located within 500 feet of a regional state park, the Planning Board shall mail notice of the public

hearing to the regional state park commission a minimum of ten (10) days prior to the public hearing.

- (f) If a parcel that is the site of a requested special use permit is within 500 feet of a municipal boundary, the Planning Board shall mail notice of the public hearing to the clerk of the municipality at least 10 days before the date of the public hearing.

B. Decision

- (1) The Planning Board shall decide on the application within sixty-two (62) days after the close of the public hearing. The time within which the Planning Board shall reach its decision may be extended by mutual consent of the applicant and the Board.
- (2) The concurring vote of a majority of all members of the Planning Board shall be necessary to grant a special use permit.

C. Filing of Decision

The Planning Board shall file a copy of its decision on the application with the Town Clerk within five (5) business days of the date of the decision. A copy of the decision shall be provided to the Zoning Officer and the Building Inspector. A copy of the decision shall be mailed to the applicant, within five business days of the date of the decision. The decision shall contain the reasons for the decision and shall include all conditions of approval, if any.

D. Findings

In order to approve or approve with conditions the Special Use Permit, the Planning Board shall make all of the following findings:

- (1) The proposed Special Use is consistent with the intent, objectives, and specific requirements of the Town's Comprehensive Plan.
- (2) The proposed Special Use complies with all applicable provisions of the Town's Zoning Law, including Section 8.4 above, or will comply with those requirements based on conditions that may be attached to any approval, unless variances have been properly granted by the Town of Great Valley Zoning Board of Appeals.
- (3) Adequate services and utilities will be available prior to occupancy.
- (4) The proposed Special Use complies with all other applicable laws, ordinances and regulations.

- (5) The proposed Special Use will not be detrimental to the public health, safety or welfare of the community.

Section 8.6 Coordination of Review

A. Variances

Where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of such determination by the Zoning Officer. The Zoning Board of Appeals shall act on the application for a variance prior to final Planning Board action on the application for the Special Use permit.

B. Site Plan Review

Where site plan review is also required by this Zoning Law, review of both the special use permit and site plan review shall proceed concurrently. However, the special use permit application shall be approved prior to final action on the application for site plan review. If the application for a special use permit is disapproved, the application for site plan review shall be deemed denied.

Section 8.7 Compliance With Conditions of Approval and Inspection

An applicant shall comply with all conditions of approval prior to the issuance of other required permits by Town Officials.

In order to ensure compliance with Conditions of Approval and to ensure that the as-built project conforms to the approved Site Plan, the Zoning Officer, Building Inspector and/or Town Engineer shall be responsible for the overall inspection of improvements, including coordination with the Planning Board and other officials and agencies, as appropriate. This inspection shall be conducted at the same time as the inspection of any conditions of approval of a Site Plan.

No Certificate of Compliance shall be issued until all conditions of approval are completed or a sufficient performance bond has been posted to guarantee completion of those conditions. Such guarantee is needed to ensure that the proposed development will be built in compliance with approved plans and maps. The sufficiency of such performance guarantee shall be determined by referral to the Town Board, after consultations by the Planning Board with Town Engineer, Town Attorney and/or other appropriate parties.

Section 8.8 Abandoned Application

An application will be deemed abandoned and will be denied if there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional material or information is requested by the Planning Board, whichever is later. "No activity" means that the applicant is not diligently providing the Town with information necessary to proceed with review of the application, including materials and/or information that are required by this local law or by the requirements of the State Environmental Quality Review Act.

Section 8.9 Expiration of Special Use Permit

A Special Use Permit shall expire one year from the date of approval, if a building permit has not been issued or if use of the property in accordance with the grant of Special Use Permit has not commenced, in cases where a building permit is not needed. The Planning Board may grant an extension for up to one additional year, upon written application by the applicant prior to the expiration of the Special Use approval. Applicant shall provide a rational basis as to why he/she was not able to begin the project.

A Special Use Permit shall expire if the use of the property in accordance with the grant of a Special Use Permit shall cease continuously for one year.

Nothing in this section shall be construed to prohibit the Planning Board from requiring, as a condition of approval, that a grant of special use permit be renewed periodically.

Section 8.10 Revocation of Approval of Special Use Permit

The Planning Board shall have the authority to revoke the grant of a special use permit, after a public hearing, if the owner/applicant fails to comply with any condition(s) of approval of the application. Prior to a public hearing on this issue, the Zoning Officer shall pursue abatement of the failure to comply as a violation in accordance with Article 6 of this Zoning Law.

Section 8.11 Amendment to Special Use Permit

After approval, if a property owner wants to modify the approved Special Use Permit or change the use being conducted on the site, he/she or his/her agents shall apply to the Planning Board for an amendment to the approved Permit, before making such change. The Planning Board shall follow the same review process for an amendment to the Special Use Permit as the process specified herein for new applications.

ARTICLE 9

SITE PLAN REVIEW

Section 9.1 Purpose

The purpose of this Section of the Zoning Law is to set forth general standards for the review of Site Plans applying to certain uses and activities. The nature of these uses and activities require special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Local Law.

The function of Site Plan Review is to ensure the optimum overall conservation, protection, preservation, development, design and use of natural and human-related resources in the Town by regulating land use activity within the Town through coordinated, interrelated systems.

Section 9.2 Authority

- A. Authority.** Pursuant to Section 274-a of NYS Town Law, the Planning Board of the Town of Great Valley is hereby authorized to approve, approve with conditions, or disapprove site plans. When approving a site plan, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed site plan and the impacts thereof.

- B. Site Plan Review Required.** Where applicable, a Zoning Permit, Certificate of Occupancy, Certificate of Zoning Compliance and/or Building Permit shall not be issued until the Site Plan has been approved by the Planning Board. The Site Plan application shall specify the present characteristics of a particular parcel of land and its surroundings and shall describe intended activities and their potential impact on the community.

- C. Variances.** Where a proposed site plan contains one or more features that do not comply with the dimensional regulations of this Zoning Law, application may be made to the Zoning Board of Appeals for an area variance, without the necessity of such determination by the Zoning Officer. The Zoning Board of Appeals shall act on the application for a variance prior to final Planning Board action on the application for Site Plan review.

In cases where any variance is required pursuant to this Town Zoning Law, the Site Plan shall be the subject of a preliminary review by the Planning Board, in accordance with the review procedures set forth herein, before action is taken by the Zoning Board of Appeals.

D. Minor or Major Site Plans. The Planning Board shall determine if the proposed activity regulated under this local law is to be considered a Minor or Major Site Plan. In general, all activities should be considered major, unless it can be demonstrated that the activity will generate little noticeable increase in traffic; will not cause an increase in ambient light or noise in a given area; will not generate smoke, dust, or other waste products which may impact adjacent properties; will not result in the possibility of an on street parking situation; and will not represent a significant change in the character of land use in the adjacent area.

This determination shall be made after the Pre-application Conference described in Section 9.4 (A). If the activity is deemed Minor by the Planning Board, the Planning Board may waive certain of the individual application content requirements of Section 9.4 (B) as they see fit and at their discretion, should that information be deemed unnecessary to complete an assessment of the application in accordance with Section 9.5, Review of Site Plan. The Planning Board may also waive the public hearing, following the procedures stated in Section 9.6B.

E. Integration of Procedures. Whenever the particular circumstances of proposed developments require compliance with either the Special Use Permit regulations in this Zoning Law or the requirements of the Town or County, the Planning Board shall attempt to integrate, as appropriate, Site Plan review as required by this Local Law with the procedural and submission requirements for such other compliance procedures.

Section 9.3 Applicability and Exceptions

A. All new development, redevelopment and new land use activities; any change in use; any use so designated on the Land Use Table; and all Special Permitted Uses within the Town shall require Site Plan review and approval prior to the issuance of a Building Permit and/or Zoning Permit, except the following:

- (1) Construction of one or two-family dwelling units and ordinary accessory structures and related land use activities.
- (2) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this Local Law.
- (3) Ordinary repair or maintenance to existing structures or uses.
- (4) Interior structural or non-structural alterations within any existing building.
- (5) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%.

- (6) Gardening activities not involving commercial use.
 - (7) All agricultural activities, including construction of buildings and structures that are normally accessory to agricultural activities.
 - (8) The sale of agricultural produce and temporary structures related to sale of agricultural produce.
 - (9) Logging and timber cutting.
 - (10) Signs under 10 square feet in sign area.
 - (11) Accessory structures, including fences, unless the fence or other accessory structure is part of a project that is subject to site plan review.
- B.** Any person uncertain of the applicability of Site Plan Review to a given land use activity may apply in writing to the Planning Board for written jurisdictional determination.

Section 9.4 Application Content

A. Pre-application Conference

A pre-application conference shall be held between the Planning Board and the applicant prior to the preparation and submission of a formal Site Plan.

The intent and purpose of the pre-application conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed Site Plan. The Planning Board shall review the basic site design concept, advise the applicant as to potential problems and concerns, and generally determine the information to be required on the Site Plan. The Planning Board shall determine if the project is a Major or Minor Site Plan, using the criteria in Section 9.2(D), and based on the information provided by the applicant. The Planning Board shall determine the number of copies of all material to be provide.

In order to accomplish these objectives, the applicant shall provide the following information for consideration at the pre-application conference:

- (1) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs with descriptions, existing and proposed vegetation, and other planned features. In addition, anticipated changes in the existing topography and natural features and, where applicable, measures and features to comply with flood hazard and flood insurance regulations should be shown.

- (2) A sketch or map of the area which clearly shows the location of the site with respect to nearby street rights-of-way, properties, easements and other pertinent features.
- (3) A topographic or contour map of adequate scale and detail to show site topography.

B. Site Plan Checklist

An application for site plan approval shall be accompanied by information drawn from the following checklist, as determined by the Planning Board after a determination as to whether the proposed project is a Minor or Major Site Plan. The formal Site Plan that is submitted for approval shall be prepared by and show the signature or seal of a licensed engineer, architect, landscape architect, or surveyor as appropriate. The Site Plan application shall include the following information, unless the Planning Board has determined that a specific item is not necessary:

- (1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
- (2) North arrow, scale and date.
- (3) A survey of the proposed development, including its acreage and a legal description thereof with boundaries plotted to scale.
- (4) Location of survey datum.
- (5) Drainage plan showing existing and finished contours and grades. Location of any slopes of five percent (5%) or greater.
- (6) Water supply plan, including location of fire lanes and hydrants.
- (7) Description of the method of securing water supply and location, design and construction materials of such facilities.
- (8) Description of the method of sewage disposal and location, design and construction materials of such facilities.
- (9) Location, design, type of construction, proposed use and exterior dimensions of all buildings.
- (10) Location, proposed use, height, building elevations and floor plans of all nonresidential and all residential structures, yard dimensions and location of all parking, loading and stacking areas with access drives.
- (11) Location of outdoor storage, if any.

- (12) Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
- (13) Location, design and construction materials of all energy distribution facilities, including electrical, gas, oil, solar and wind energy.
- (14) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- (15) The lines of existing and proposed streets, crosswalks and sidewalks, immediately adjoining and within the proposed site showing pedestrian access, and the names of all proposed streets.
- (16) Location and proposed development of all open spaces, including parks, playgrounds and open reservations.
- (17) Location and proposed development of all buffer areas, including existing vegetative cover.
- (18) General landscaping plan.
- (19) Location and design of outdoor lighting facilities.
- (20) Location, size and design and type of construction of all proposed signs.
- (21) An estimated project construction schedule.
- (22) Identification of any County, State or Federal permits required for the project's execution, and documentation of application for and approval status of all necessary permits from the County, State, or Federal officials.
- (23) Description of operations. The nature and intensity of the operation and its compatibility with surrounding development.
- (24) The means by which surrounding properties will be protected from any objectionable influences, such as noise, glare, dust, vibration, fire hazards, air pollution, water pollution, soil erosion and traffic.
- (25) Additional data on other elements integral to the proposed development may be requested of a property owner or his or her agent by the Planning Board as it deems necessary and pertinent to carry out its responsibility for Site Plan review as provided in this Law.
- (26) SEQRA Environmental Assessment Form

(27) All required fees.

Section 9.5 Standards for Review of Site Plan

- A. Consistency with Other Plans and Laws.** The Site Plan shall be in conformance with this Local Law, the Town's Comprehensive Plan and all other applicable laws, ordinances and regulations.
- B. General Standards.** The Planning Board's review of the Site Plan shall include, as appropriate, but is not limited to, the following general considerations:
- (1) Location, arrangements, size, design and general site compatibility of buildings, lighting and signs.
 - (2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (4) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - (5) Adequacy of storm water and drainage facilities, as approved by the Town Engineer.
 - (6) Adequacy of water supply and sewerage disposal facilities.
 - (7) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 - (8) Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 - (9) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
 - (10) Location, size, use of structure, nature and intensity of operations involved, size of site in relation to proposed use, and location of site with respect to streets giving access to it are such that it will be in harmony with the orderly development of the District.

- (11) Location, nature, architectural characteristics and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, or impair their value.
- (12) Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
- (13) Protection of solar access on adjacent or neighboring properties.
- (14) In the case of apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation, and access or proximity to routine, day-to-day retail goods and services.

Section 9.6 Application Process

A. Submission to Planning Board

The application for Site Plan approval shall be made in writing to the Planning Board and shall contain all information required by the Planning Board. The applicant is encouraged to attend the Planning Board meeting to answer questions concerning the application.

B. Public Hearing Optional

- (1) The Planning Board may conduct a public hearing on the Site Plan application. If a public hearing is considered desirable by a majority of the Planning Board, such public hearing shall be conducted within sixty-two (62) days of the receipt of the complete application.
- (2) The Planning Board shall provide notice of the public hearing in the following ways:
 - (a) By publishing a notice in the official newspaper of the Town at least five (5) days before the public hearing.
 - (b) By mailing a notice to the owner of record of all abutting properties. For purposes of this section, parcel(s) that are immediately across the street shall be construed to be abutting. The notice shall be mailed at least ten (10) days prior to the hearing.
 - (c) By mailing a notice of the public hearing to the applicant a minimum of 10 days before the date of the hearing.
 - (d) If a referral to the Cattaraugus County Planning Board is required pursuant to Section 239-m of General Municipal Law, the Planning Board shall mail

a notice of the public hearing to the County Planning Board a minimum of 10 days before the hearing; such notice shall be accompanied by a full statement of the proposed project.

- (e) If the site that is the subject of a public hearing is located within 500 feet of a municipal boundary, notice of the public hearing shall be mailed to the Clerk of that municipality a minimum of 10 days before the hearing, pursuant to Section 239-nn of General Municipal Law.

C. Decision

- (1) If no public hearing is held, within sixty-two (62) days of receipt of a complete application, the Planning Board shall render a decision to approve, approve with conditions or modifications, or deny the site plan application.
- (2) If a public hearing is held, the Planning Board shall render its decision within sixty-two (62) days of the close of the public hearing.
- (3) The time within which the Planning Board must render its decision may be extended by mutual consent of both the applicant and the Planning Board.
- (4) In approving a Site Plan, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed project. The approval shall be conditional upon the satisfactory compliance with these conditions or modifications by the property owner and his or her agents and any such conditions must be met in connection with the issuance of permits pertaining to the approval by the building inspector and/or zoning officer.
- (5) Within five business days after the decision, the Planning Board shall file said decision with the Town Clerk, the Building Inspector, and the Zoning Officer and shall mail a copy of the decision to the applicant. The decision shall contain the reasons for the Board's determination and shall list the conditions of approval, if any.

D. Planning Board Findings

In order to approve or approve with conditions the Site Plan, the Planning Board shall make all of the following findings:

- (1) The proposed Site Plan is consistent with the intent, objectives, and specific requirements of the Town's Comprehensive Plan.
- (2) The proposed Site Plan complies with all applicable provisions of the Town's zoning Law, or will comply with those requirements based on conditions that

may be attached to any approval, unless variances have been properly granted by the Town of Great Valley Zoning Board of Appeals.

- (3) Adequate services and utilities will be available prior to occupancy.
- (4) The proposed site plan complies with all other applicable laws, ordinances and regulations.
- (5) The proposed Site Plan will not be detrimental to the public health, safety or welfare of the community.

E. Expiration

Site Plan approval shall expire one year from the date of the approval, if a building permit has not been issued or if use of the property in accordance with the approved Site Plan has not commenced, in cases where a building permit is not needed. Extensions may be granted by the Planning Board, upon written application to the Planning Board prior to the expiration date of the approval. Applicant shall provide a rational basis as to why he/she was not able to begin the project.

F. Documentation of Actions Taken

The Planning Board shall file a full written record of its minutes and decisions together with all documents pertaining to all matters before it with the Town Clerk, with a copy to the Zoning Officer.

Section 9.7 Consultant Review and Fees

In reviewing any Site Plan, the Planning Board may consult with, but is not limited to, the Zoning Officer, Fire Chief, Department of Public Works, County Planning Department and other local or county officials, the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

The Planning Board or Town Board may retain private, expert consultants to assist in the review of the Site Plan, the cost of which shall be paid by the applicant. The applicant shall also be responsible to reimburse the Town for all costs resulting from review by the Town Engineer and/or Town Attorney. The cost of project review shall include the cost of inspection of improvements required in Section 9.10.

Section 9.10 Compliance With Conditions of Approval and Inspection

As stated in Section 9.6, an applicant shall comply with all conditions of approval prior to the issuance of other required permits by Town Officials. In addition, a Building Permit and/or Zoning Permit shall not be issued until all fees for project review, through the approval of the project, have been paid.

In order to ensure compliance with Conditions of Approval and to ensure that the as-built project conforms to the approved Site Plan, the Zoning Officer, Building Inspector and/or Town Engineer shall be responsible for the overall inspection of improvements, including coordination with the Planning Board and other officials and agencies, as appropriate. This inspection shall occur prior to the issuance of a Certificate of Zoning Compliance. No Certificate of Zoning Compliance will be issued until after the receipt of payment of the fee for this inspection.

No Certificate of Compliance shall be issued until all improvements shown on the approved Site Plan are installed or a sufficient performance bond has been posted to guarantee completion of improvements not yet made. Such guarantee is needed to ensure that the proposed development will be built in compliance with approved plans and maps. The sufficiency of such performance guarantee shall be determined by referral to the Town Board, after consultations by the Planning Board with Town Engineer, Town Attorney and other appropriate parties.

Section 9.11 Site Plan Revision

After approval, if a property owner wants to modify the approved Site Plan or change the use being conducted on the site, he/she or his/her agents shall apply to the Planning Board for an amendment to the approved Site Plan, before making such change. The Planning Board shall follow the same review process for an amendment to the Site Plan as the process specified herein for new applications, unless the change is exempted in Section 9.3 of this Local Law.

Section 9.12 Revocation of Site Plan Approval

The Planning Board shall have the authority to revoke the approval of a Site Plan, after a public hearing, if the property owner or project sponsor fails to comply with any condition(s) of approval of the project. Prior to a public hearing on this issue, the Zoning Officer shall pursue abatement of the failure to comply as a violation in accordance with Article 6 of this Zoning Law.

Section 9.13 Abandoned Application

If there is no activity by the applicant on the application for Site Plan within six months of the initial application date or from the date that additional material is requested by the Planning Board, whichever is later, the Planning Board may deem the application inactive and deny the application due to inactivity. "No activity" means that the applicant is not diligently providing the Town with information necessary to proceed with review of the application, including materials and/or information that are required by this Zoning Law or by the requirements of the New York State Environmental Quality Review Act.

ARTICLE 10

PLANNED UNIT DEVELOPMENT

Section 10.1 Purpose

- A.** When coordinated with the Town's Comprehensive Plan, Planned Unit Development can be an effective tool for guiding development in ways that support community goals and priorities.

- B.** Planned Unit Development provides a means by which different land uses within an area covered by a single development plan may be combined to achieve compatibility among such uses. Planned Unit Developments (PUD) provide flexibility in the regulation of land use development in order to:
 - (1) Encourage innovation in land use variety and design, in the layout and type of new structures and in their integration with existing structures
 - (2) Enhance efficiency in the use of land, natural resources, energy, community services and utilities
 - (3) Encourage open space preservation, and protection of natural resources, protection of historic sites and historic structures
 - (4) Provide for the reduction of the cost of infrastructure
 - (5) Provide for the integration of a variety of compatible land uses
 - (6) Allow flexibility of minimum lot sizes and dimensional regulations
 - (7) Allow flexibility in the arrangement and types of land uses
 - (8) Enhance the ability of the Town to promote business and employment opportunities

Section 10.2 Authorization

A. Town Board

The Town Board of the Town of Great Valley is hereby authorized to approve, approve with conditions, or disapprove the establishment of one or more Planned Unit Development Districts. Simultaneously with the establishment of a PUD District, the Town Board shall review and approve, with or without conditions, a Preliminary Planned Unit Development (PPUD) Plan.

When approved by the Town Board, the PUD District shall be a new zoning district that replaces the zoning district that previously applied to the site. The Preliminary Planned Unit Development Plan that is approved with the PUD District shall contain all the applicable land use and dimensional regulations that apply within the PUD District. The PUD District shall be shown on the Town's zoning map.

B. Planning Board

The Planning Board is hereby authorized to review and act on Final Planned Unit Development (FPUD) Plans in accordance with the regulations set forth herein. When approving a Final Planned Unit Development Plan, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed development. Any Final Planned Unit Development Plan that is approved by the Planning Board shall be substantially consistent with the Preliminary Planned Unit Development Plan that has been approved by the Town Board.

Section 10.3 Applicability

A. A Planned Unit Development may be located in any zoning district in the Town.

B. All Planned Unit Developments shall contain a minimum of five (5) acres.

C. Density

The Town Board, as part of the Preliminary Planned Unit Development Plan, shall establish the maximum allowable density for the development, which shall be determined based upon the type of use; the topography of the site and other site features, such as wetlands and floodplain; and the type and capacity of sanitary sewerage disposal system and water supply system. In no case shall the density exceed that which would be allowed if the site were located in the HD zoning district, as described in Table 3-2, and as may be modified by Table A in accordance with Section 3.2C of this zoning law. The maximum number of attached dwelling units (townhouses) shall be determined pursuant to Section 4.11 of this zoning law.

In order to demonstrate that the site can support the requested density, the applicant shall provide a sketch plan that shows the density that could be obtained using a conventional layout based upon the density regulations of the zoning district in which the site is located at the time that an application for PUD District is made. This sketch plan shall be accompanied by a site plan that shows the proposed site layout and density. The applicant shall explain why any increase in density is warranted, based upon proposed services, clustered development, and/or any other pertinent factors.

D. Permitted Uses

The Town Board, as part of the Preliminary Planned Unit Development Plan, shall establish the allowable land uses within the PUD District. Planned Unit Developments encourage a mixture of land uses and/or a mix of housing types. Multiple family housing, including apartments; townhouses; and zero lot line development may be allowed. A combination of residential uses and commercial recreation, such as golf courses, ski resorts or similar facilities, may be allowed. Any use that is permitted in the zoning district in effect at the time the application for PUD District is made may be allowed.

The Town Board may allow other uses that are not specifically permitted in Table 3-1, Land Use Table, provided that the Town Board determines that such uses are: (1) consistent with the intent and purpose of this Zoning Law; (2) consistent with the Town's Comprehensive Plan; (3) such uses will not have an injurious or negative impact on adjacent properties; and (4) such uses comply with the criteria in this Article.

Where an application for a Special Use Permit would otherwise be required for a use that is proposed to be part of a Planned Unit Development, the Town Board and Planning Board shall consider that use as part of the entire application for a Planned Unit Development. A separate Special Use Permit application shall not be required.

Where an application for Planned Unit Development also requires Subdivision approval, the Subdivision application shall be considered by the Planning Board simultaneously with the application for Final Planned Unit Development (FPUD) Plan approval.

E. Yard and Area Requirements

- (1) The PUD may contain minimum front, side and rear setbacks that may be less than those otherwise required in the zoning district in which the site is located at the time of application. The Town Board, as part of the Preliminary Planned Unit Development Plan, shall establish appropriate setbacks for the development within the PUD District.
- (2) The PUD may contain lots that have minimum areas and minimum widths that are less than those that would otherwise be required for the zoning district in which the site is located at the time of application. The Town Board, as part of the Preliminary Planned Unit Development Plan, shall establish appropriate minimum lot sizes and widths for the development within the PUD District.

F. Required Open Space

- (1) Land area saved by any reduction in the minimum lot size, which may be approved as part of a PUD, shall be placed in dedicated open space. The area of dedicated open space must be equivalent to, or more than, the total reduction in lot sizes.
- (2) The required open space may be used for active or passive recreation or to preserve significant scenic, historic or natural features of the site.
- (3) The required open space may be publicly or privately owned.

Section 10.4 Pre-Application Conference

Prior to submitting a formal application, the applicant may meet with the Town Board and the Planning Board to informally discuss the proposed project. At this time the applicant can inform the Boards of the proposal prior to the preparation of a detailed Planned Unit Development application. The Boards can review the basic design concept and advise the

applicant as to potential problems and concerns and can generally determine the type of information that would be required for the Planned Unit Development application.

Section 10.5 Procedure for Preliminary Planned Unit Development Plan & Planned Unit Development District

A. Application Submittal

An applicant shall submit a completed application for a Planned Unit Development District and a preliminary Planned Unit Development Plan to the Zoning Officer, who shall forward it to the Town Board.

B. Public Hearing

Within 90 days of receipt of the complete application, the Town Board shall hold a public hearing on the proposed Planned Unit Development District and preliminary Planned Unit Development Plan.

At least 30 days prior to the public hearing, the Town Board shall refer the application to the Planning Board for its review and recommendation. The Planning Board shall submit its recommendations prior to or at the public hearing.

The Town Clerk shall provide notice of the public hearing, according to the Public Hearing noticing requirements contained in Article 13, Amendments, of this Zoning Law. In addition to the required noticing provisions in Article 13, the Town Clerk shall mail a notice of the public hearing to the owners of every parcel that is within two hundred fifty (250) feet of all property lines of the subject property at least ten (10) days prior to the public hearing.

C. Phasing of Planned Unit Developments

If the applicant intends to complete the Planned Unit Development in phases, that shall be stated as part of the application for a Planned Unit Development District and preliminary Planned Unit Development Plan. Applicant shall submit a phasing plan as part of the application. The Town Board may act to approve and map the entire Planned Unit Development District and preliminary Planned Unit Development Plan, as well as the phasing plan. The Planning Board shall act to approve the Final Planned Unit Development Plan for one or more phase at a time, according to the approved phasing plan.

D. Town Board Action

Within 62 days after the close of the public hearing, the Town Board shall act to approve, approve with modifications and/or conditions, or deny the application for a Planned Unit Development District and Preliminary Planned Unit Development Plan. The time period within which the Town Board shall reach its decision may be extended by mutual consent of the applicant and the Board.

- (1) If the application is approved, the Zoning Map shall be amended to show the location of the Planned Unit Development District.
- (2) The Town Board shall notify the applicant and the Planning Board in writing of its determination within five business days of the date of the action.
- (3) The Town Board shall place a copy of the notification on file in the office of the Town Clerk.

E. Expiration of Approval of a Preliminary Planned Unit Development Plan

The Town Board's approval of a Preliminary Planned Unit Development Plan shall expire within two years from the date of approval, if the applicant fails to make application to the Planning Board for Final Planned Unit Development Plan approval within that time. If the Town Board approves a phasing plan where the phasing of development is longer than two years, the Preliminary Planned Unit Development Plan approval will remain valid as long as the applicant continues to receive Final PUD Plan approval in accordance with the phasing plan and continues to develop the site in accordance with the approved Plans.

An extension may be granted by the Town Board, upon written application prior to the expiration date of the approval. Applicant shall provide a rational basis as to why the extension is necessary.

F. Amendment of Planned Unit Developments

The applicant may apply to the Town Board to amend an approved Planned Unit Development District and/or preliminary Planned Unit Development Plan. The Town Board and Planning Board shall act on the amendment as if it were an original application, and shall follow all the review procedures stipulated above, including a public hearing and additional review under the NYS Environmental Quality Review Act.

Section 10.6 Procedure for Final Planned Unit Development Plan

A. Application

In accordance with the phasing plan approved by the Town Board, the applicant shall submit a proposed Final Planned Unit Development Plan to the Planning Board. The proposed final plan shall be substantially consistent with the preliminary Planned Unit Development Plan that was approved by the Town Board.

B. Planning Board Action

- (1) Within 62 days of the receipt of a complete application for a Final Planned Unit Development Plan, the Planning Board shall hold a public hearing on the FPUD Plan.

The Planning Board shall provide notice of the public hearing as specified in Section 10.5B, above.

- (2) Within 62 days of the close of the Public Hearing, the Planning Board shall act to approve or approve with modifications and/or conditions the Plan. If the Planning Board, in consultation with the Town Board, determines that the proposed Final Planned Unit Development Plan is not consistent with the approved preliminary Planned Unit Development Plan, the Planning Board shall deny the application. The time period within which the Planning Board shall reach its decision may be extended by mutual consent of the applicant and the Board.
- (3) The Planning Board's determination shall be filed in the office of the Town Clerk within five business days after such decision is rendered, and a copy of the decision shall be mailed to the applicant. Copies of the decision shall be filed with the Zoning Officer, Building Inspector and Town Board.

C. Expiration of Approval of the Final Planned Unit Development Plan

The Final Planned Unit Development Plan approval shall expire one year from the date of the approval, unless a Building Permit is obtained and work commenced on the approved FPUD Plan, or any phase of such plan. Such approval may be extended by the Planning Board for up to one additional year, upon request by the applicant, prior to the expiration of the approval. Applicant shall provide a rational basis as to why the extension is necessary.

Section 10.7 Application Requirements for Planned Unit Development District and Preliminary Planned Unit Development Plan

A. Application for Planned Unit Development District

This application shall identify precisely the area to be included within the Planned Unit Development District. The application shall identify all proposed land uses.

B. The Preliminary Planned Unit Development Plan

The Preliminary Planned Unit Development Plan shall be at a level of detail sufficient to allow the Town Board to evaluate it. The application shall contain the following information and items:

- (1) A map of the existing site, showing the following information:
 - (a) a vicinity map, showing the project site in relation to the surrounding area
 - (b) scale and north arrow
 - (c) site boundaries and dimensions
 - (d) location and type of existing vegetation
 - (e) The 100 year floodplain and any New York State designated wetlands
 - (f) Existing structures and their current uses

- (g) Existing roads and other improvements
 - (h) Location of public utilities and utility easements
 - (i) Full Environmental Assessment Form (EAF)
 - (j) Any other data that may be required by the Town Board
- (2) A map showing the major components of the proposed Planned Unit Development, including:
- (a) Scale and north arrow
 - (b) The general location of all proposed buildings.
 - (c) General dimensions of lot sizes and setbacks.
 - (d) The proposed circulation system, including streets, driveways, and parking facilities, and showing access to the existing street system.
 - (e) A general description of proposed drainage systems and runoff control
 - (f) Topographic map showing existing topography and, in general, proposed grading of the site, including a preliminary grading plan, which will show the tentative dimensions (height and length) of retaining walls, if any.
 - (g) sketch plan that that shows the density that could be obtained using a conventional layout based upon the density regulations of the zoning district in which the site is located at the time that an application for PUD District is made.
- (3) A written statement (or maps) containing the following information:
- (a) A statement of how water supply and waste disposal systems will be provided. A map shall be provided that shows the tentative location of water lines and sanitary sewer lines.
 - (b) General description of architectural style, height, size and location of buildings.
 - (c) A statement of the present and future ownership and tenancy of the Planned Unit Development.
 - (d) A development schedule indicating the approximate date when construction of the Planned Unit Development, including any phases of the development, can be expected to begin and to be completed.
 - (e) A statement of what facilities, if any, shall be offered for dedication to the Town.
 - (f) A statement of how the open space and/or common areas of the development shall be owned and maintained.

At its discretion, the Town Board may waive the requirement for submittal of one or more of the above listed items. The Town Board may require any additional information that is reasonably related to a review of the project as proposed.

Section 10.8 Application Requirements for Final Planned Unit Development Plan

- A.** An application for Final Planned Unit Development Plan shall be in substantial conformance with the Preliminary Planned Unit Development Plan that was approved by the Town Board.
- B.** The Final Planned Unit Development Plan application shall contain the following items:

- (1) A map showing the details of the Planned Unit Development. The plan shall contain sufficient detail to evaluate the land planning, building design, and other features of the proposed Planned Unit Development. The plan shall contain the following information, including:
 - (a) scale and north arrow
 - (b) Proposed name of the development
 - (c) Grading plan for the site showing existing and proposed contours at no greater than five-foot intervals, or as otherwise directed by the Planning Board.
 - (d) A complete site plan, with all the requirements of Site Plan submission as detailed in Article 9 of this Zoning Law.
 - (e) The location, exterior dimensions and height of all existing and proposed buildings, structures and improvements.
 - (f) The architectural style, colors and materials of all buildings, including elevations.
 - (g) Maximum height, dimensions, and square footage of all buildings.
 - (h) Area and dimensions of all lots proposed to be created as part of the project.
 - (i) A landscaping plan
 - (j) A complete circulation plan, including streets, driveways, parking areas and walkways.
 - (k) Location and dimension of all recreational and open space areas.
 - (l) Detailed drainage systems and runoff control
 - (m) Detailed description of water supply and sewerage facilities.
 - (n) A lighting plan
 - (o) Any other information required by the Planning Board.

- (2) A written statement containing the following information:
 - (a) Offers of dedication, if any, to the Town for streets and other facilities. The Town Board shall act to accept or not accept any offers of dedication.
 - (b) Copies of any special agreements, conveyances, restrictions, or covenants which will govern the use, maintenance and continued protection of the Planned Unit Development and its common areas, including the required open space areas.

At its discretion, the Planning Board may waive the requirement for submittal of one or more of the above listed items.

Section 10.9 Standards for Planned Unit Developments

In acting on an application for a Planned Unit Development, the Town Board and the Planning Board shall consider the following design standards. Prior to any approval, the reviewing body shall find that the proposal conforms to all of these standards or that a particular standard is not applicable to the particular application under review.

- A.** Individual lots, buildings, streets, and parking areas shall be designed and located to minimize alteration of the prominent natural features of the site. Natural features include, but are not limited to, streambeds, wooded hillsides and landforms with slopes greater than twenty-five percent (25%).
- B.** Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between the development and the land.
- C.** Individual lots, buildings, and units shall be arranged and situated to relate to each other and to surrounding properties and to decrease the land area devoted to motor vehicle access.
- D.** Individual lots, buildings, units, and parking areas shall be situated to avoid the adverse effects of noise and traffic on the residents of the site and on adjacent sites, and to preserve any solar access to adjacent sites that have solar energy facilities at the time the application is made.
- E.** The design of the Planned Unit Development shall preserve any significant natural, scenic, or historic features of the site.
- F.** The Planned Unit Development shall be in harmony with the general purposes, goals, objectives and standards of the Town's Comprehensive Plan and this Zoning Law.
- G.** The Planned Unit Development shall not have a significant adverse affect on neighboring property.
- H.** The Planned Unit Development shall have an adequate water supply system and an adequate system for the disposal of sewage, which shall be approved, in writing, by the appropriate governmental agencies.
- I.** Streets and storm water drainage systems shall meet all the appropriate requirements of the Town of Great Valley and New York State Department of Environmental Conservation (NYSDEC).
- J.** The Planned Unit Development shall meet all the parking requirements of this Zoning Law. Use of shared parking areas is encouraged, where appropriate.
- K.** The proposed landscaping is adequate to (1) provide buffering where required, (2) to protect against the possibility of erosion, and (3) to enhance the aesthetics of the site.
- L.** The lighting for the Planned Unit Development is adequate to serve the facilities and is oriented to have minimal impact on neighboring properties.
- M.** If new streets are proposed, they should connect into the Town's existing street pattern, to the maximum extent feasible. The number of driveway entrances onto the Town's existing street pattern should be minimized in order to promote traffic safety and flow.

- N. The adequacy of the internal circulation system, in terms of both vehicular and pedestrian circulation.
- O. The proposed development will not have a significant adverse effect on the one hundred (100) year floodplain, on designated wetlands or on other natural features or hazard areas.
- P. If reductions in lot sizes have been allowed, the Planned Development shall contain the open space required by Section 10.3 (F). The open space may be used for recreational purposes, or it may be used to preserve natural areas or scenic viewsheds. The open space area or areas shall be conveyed in such a manner that they remain permanent open space. The open space area or areas on the parcel may be conveyed to the Town of Great Valley, or it may be held as private open space. In assessing the suitability and usability of the required open space, the Town Board shall use the following criteria:
 - (1) All Planned Unit Developments shall contain open space that is, at a minimum, equivalent in area to the total reduction in lot size.
 - (2) The usability of open space intended for a recreational or public use shall be determined by the size, shape, topography, and location of the open space in relation to the particular use proposed for that site.
 - (3) Open space intended for a recreational or public use shall be easily accessible.
 - (4) Open space shall include irreplaceable natural features, such as, but not limited to, stream beds, significant stands of trees, scenic vistas, and rock outcroppings.
 - (5) The suitability of open space intended for scenic value and purposes shall be determined by its visibility from a significant number of units or buildings or from a significant length of public streets.
 - (6) Open space shall not include areas devoted to public or private streets.

Section 10.10 Ownership and Maintenance of Open Space

- A. Open space areas may be either public open space or private open space. As used herein, "public open space" means land owned by the Town of Great Valley or some other governmental agency. "Private open space" means lands owned by a Homeowners Association, or lands owned by a not-for-profit corporation or other similar legal organization.
- B. If the open space is offered for dedication to the Town of Great Valley, the Town Board shall decide whether or not to accept the open space dedication.

- C. If the open space is not dedicated to the Town of Great Valley, it shall be protected by legal arrangements, satisfactory to the Town Board and Town Attorney, sufficient to assure its maintenance and preservation for whatever purpose is intended.

ARTICLE 11
TRANSFER OF DEVELOPMENT RIGHTS

[Reserved for future use]

ARTICLE 12 COUNTY REFERRAL

Section 12.1 Proposed Actions Subject to Referral

In accordance with New York State General Municipal Law Section 239-m, the following proposed actions by the Town Board, the Planning Board or the Zoning Board of Appeals shall be referred to the Cattaraugus County Planning Board for its review and recommendation before final action is taken by the local board. These items shall be referred only if they meet the geographic requirements in Section 12.2.

- (1) Adoption of or amendment to the Comprehensive Plan.
- (2) Adoption of or amendment to the zoning law.
- (3) Issuance of special use permits.
- (4) Approval of site plans.
- (5) Granting of use or area variances.
- (6) Applications for Preliminary Planned Unit Development Plan and Planned Unit Development District approval.
- (7) Applications for Final Planned Unit Development Plan approval.

Section 12.2 Geographic Criteria

The proposed actions set forth in Section 12.1 shall be subject to the referral requirements of this article if they apply to a parcel or lot within five hundred (500) feet of any of the following:

- (1) The boundary of any city, village or town.
- (2) The boundary of any existing or proposed county or state park or any other recreation area.
- (3) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway.
- (4) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.
- (5) The existing or proposed boundary of any county or state owned land on which a public building or institution is situated.
- (6) The boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the agriculture and markets law, except that applications for area variances shall not be referred.

Section 12.3 County Planning Board Review

- A.** The Cattaraugus County Planning Board shall have thirty (30) days after receipt of a full statement of the proposed action, or such longer period as may have been agreed upon by the County Planning Board and the local board, to report its recommendations to the local board. The County Planning Board's report shall include a statement of the reasons for its recommendation.
- B.** If the County Planning Board recommends modification or disapproval of a proposed action, the local board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.
- C.** If the County Planning Board fails to report back to the local board within thirty (30) days, or other such time period as may have been agreed to, the local board may take final action on the proposed action without such report. However, any report by the County Planning Board that is received two or more days prior to final action by the local board shall be considered by such local board, and shall be subject to the provisions of Section 239-m of General Municipal Law.

Section 12.4 Report of Final Action

Within thirty (30) days after its final action on the proposal, the local board shall file a report of the action it has taken with the County Planning Board. If the local board acted contrary to a recommendation of modification or disapproval, the report shall set forth the reasons for that decision.

ARTICLE 13 AMENDMENTS

Section 13.1 Town Board May Amend

The Town Board, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board, may amend, supplement or repeal the regulations and provisions of this law after public notice and hearings as provided by New York State Town Law.

Section 13.2 Planning Board Review

Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Town of Great Valley Planning Board for a report thereon prior to Town Board action on the proposal. If the Planning Board fails to submit such report within forty-five (45) days of the date of referral, or within such longer time period as may be established by the Town Board, it shall be deemed that the Planning Board has approved the proposed amendment or change.

Section 13.3 Public Notice and Hearing

The Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendments, and shall cause notice to be given as follows:

A. Public Notice

- (1) Notice of the public hearing shall be published of at least ten (10) days in advance of such hearing in the official newspaper of the Town. Such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents, and shall name the place or places where copies of the proposed amendment may be examined.
- (2) In addition, the following notices shall be given, if appropriate:
 - (a) A written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any State Park shall be mailed to the Regional State Park Commission having jurisdiction over such State facility at least ten (10) days prior to the date of such public hearing.
 - (b) A written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any city, village, town, or county, shall

be mailed to the clerk of such municipality at least ten (10) days prior to the date of such hearing.

- (c) A written notice of any proposed change or amendment affecting property within 500 feet of the property of any housing authority erecting or owning a housing project authorized under the public housing law shall be mailed to the executive director of such housing authority and to the chief executive officer of the municipality providing financial assistance thereto, at least ten (10) days prior to the date of such hearing.

B. Public Hearing

The hearing shall be held at the stated time and place by the Town Board and shall include within its proceedings:

- (1) A description of the proposed change, amendment or supplement, either in complete or summary form.
- (2) An opportunity for all interested persons to be heard in a manner prescribed by the Town Board.

Section 13.4 Adoption

- A.** Any such amendments may be approved by a simple majority vote of the Town Board, except that any such amendment shall require the approval of at least three-fourths of the members of the Town Board in the event such amendment is the subject of a written protest, presented to the Town Board and signed by:
 - (1) The owners of twenty (20) percent or more of the area of land included in such proposed change; or
 - (2) The owners of twenty (20) percent or more of the area of land immediately adjacent to that land included in such proposed change, extending one hundred (100) feet therefrom; or
 - (3) The owners of twenty (20) percent or more of the area of land directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land.
- B.** Prior to final action by the Town Board on the proposed amendment, it shall be referred to the Cattaraugus County Planning Board following the provisions of Section 239-m of New York State General Municipal Law and Article 12 of this Zoning Law. If the County Planning Board recommends modification or disapproval of an amendment, the Town Board shall not act contrary to such recommendation, except by a vote of a majority plus one of all the members.

Section 13.5 Filing Requirements

- A.** Amendments made to this law, excluding any map incorporated therein, shall be entered in the minutes of the Town Board. Such minutes shall describe and refer to any map adopted in connection with the amendment.
- B.** A copy or a summary of the amendment, excluding any map incorporated therein, shall be published once in a newspaper having general circulation in the Town. An affidavit of the publication of the summary shall be filed with the Town Clerk.
- C.** The Town Clerk shall maintain every map adopted in connection with this zoning law and every amendment thereto. Said documents shall be made available during regular business hours for public inspection.

ARTICLE 14
EFFECTIVE DATE

This local law shall take effect immediately upon adoption.