

**VILLAGE OF LITTLE VALLEY  
ZONING LAW**

**Adopted  
January 12, 2016**

**VILLAGE OF LITTLE VALLEY, NEW YORK**

**Local Law 1 of 2016**

**A Local Law to enact a Zoning Law for the Village, entitled  
"Village of Little Valley Zoning Law"**

Be it enacted by the Board of Trustees of the Village of Little Valley as follows:

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# **ARTICLE 1**

## **MISCELLANEOUS PROVISIONS**

### **Section 1.1 Enacting Clause**

Pursuant to the authority conferred by Article 7 of the Village Law of the State of New York and for each of the purposes specified therein, the Village Board of the Village of Little Valley, County of Cattaraugus and the State of New York has ordained and does hereby enact the following local law regulating and restricting the location, size and use of buildings and other structures and the use of land in the Village of Little Valley, New York.

### **Section 1.2 Short Title**

This local law shall be known and may be cited as the "Zoning Law of the Village of Little Valley, Cattaraugus County, New York."

### **Section 1.3 Intent and Purpose**

For the purpose of promoting the public health, safety, comfort and general welfare; conserving and protecting property and property values; securing the most appropriate use of land; lessening or avoiding congestion in the public streets and highways; and facilitating adequate but economical provision of public improvements, all in accordance with a comprehensive plan, the Village Board finds it necessary and advisable to regulate the location, size and use of buildings and other structures; percentages of lot area which may be occupied; setback building lines; sizes of yards, courts, and other open spaces; and the use of land for trade, industry, residences, recreation or other purposes, and for such purposes divides the incorporated area of the Village into districts or zones. An additional purpose is to ensure that the Village's development policies are consistent with the *Little Valley Comprehensive Land Use Plan, 1999*.

### **Section 1.4 Separability**

If any part or provision of this local 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 local law or the application thereof to other persons or circumstances, and the Village Board hereby declares that it would have enacted this local law or the remainder thereof had the invalidity of such provision or application thereof been apparent.

## **ARTICLE 2 RULES AND DEFINITIONS**

### **Section 2.1 Rules**

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

- (1) Words used in the present tense shall include the future.
- (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 building have the same meaning and include the excavation for a building foundation and the relocation of a building from one location to another.

### **Section 2.2 Definitions**

The following words and terms, wherever they occur in this law, shall be interpreted as herein defined:

**ABANDONMENT** To cease or discontinue a use.

**ACCESSORY BUILDING** A building located on the same lot as a principal building and used for purposes customarily incidental to and subordinate to the principal structure.

**ACCESSORY STRUCTURE** A structure located on the same lot as a principal building and used for purposes customarily incidental to and subordinate to the principal structure.

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

**ADULT USE** Whenever used in this local law, the words adult use or adult uses apply to the following types of establishments:

- (1) **Adult Arcade:** An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, computers, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (2) **Adult Bookstore:** An establishment that has, as a substantial or significant portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, pamphlets, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, pictures, slides, videotapes, sound recordings, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- (3) **Adult Entertainment Cabaret:** A public or private nightclub, bar, restaurant or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which more than 10 percent of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction of specified sexual activities or specified anatomical areas.
- (4) **Adult Hotel/Motel:** A motel or hotel or similar business establishment offering public accommodations for any form of consideration that provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas and that 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.
- (5) **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, and where the services provided are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- (6) **Adult Modeling Studio:** An establishment whose primary business is the provision to customers of figure models, who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, sketched, drawn, painted, sculptured, photographed or otherwise depicted by such customers. 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 in the New York State Education Law for the issuance or conferring of a diploma and is in fact authorized to issue or confer a diploma.

- (7) **Adult Motion Picture Theater:** An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown to an audience of any size, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
- (8) **Peep Show:** A theater which presents materials in the form of live shows, films, videotapes or computers viewed from an enclosure for which a fee is charged and which material is characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
- (9) **Adult Theater:** A theater, concert hall, auditorium, or similar establishment that presents performances in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis on the depiction or description of specified anatomical areas or by specified sexual activities.
- (10) **Adult Video Store:** An establishment having as a substantial or significant portion of its stock-in-trade, videotapes or films for sale or viewing on the premises by use of motion picture devices, video equipment, computer equipment, coin operated machines or by other means and which materials are characterized by an emphasis on the exposure of specified anatomical areas or by specified sexual activities.
- (11) **Body Painting Studio:** An establishment or business which provides the service of applying paint or other substances, whether transparent or non-transparent, to or on the human body and which service is provided with the intent of providing sexual stimulation or sexual gratification to its customers.

**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 on a side or by increasing in height, or the moving from one location or position to another. (See also "Structural alteration.")

**ANTIQUÉ MALL** A building that is partitioned to provide spaces for the sale of antiques and/or collectibles by multiple antique dealers, for items such as clocks, lamps, clothing, rugs, toys, furniture, dishes, decorative objects, and similar items.

**ANTIQUÉ STORE** A retail establishment offering antiques and or collectibles for sale.

**APPEAL** A request for a review of the Zoning Officer's interpretation of any provision of this law or a request for a variance.

**AREA, BUILDING** See "Building area."

**AREA, LOT** The total area within the boundary lines of a lot.

**AREA VARIANCE** See "Variance, Area."

**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.

**AUTOMOBILE REPAIR SHOP** An establishment where repairs to, and servicing, greasing, and adjusting of, automobiles and 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 SALES ESTABLISHMENTS** A lot, building, or structure where new or used automobiles, trucks, or motorcycles are available for sale.

**BANK** An institution where money is deposited, kept, lent, or exchanged.

**BAKERY** An establishment primarily engaged in the retail sale of baked goods for consumption off site. The products may be prepared either on or off site. A bakery may include incidental food service.

**BAR** A business 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** See "Personal Service Establishment."

**BASE FLOOD** The flood having a one percent chance of being equalled or exceeded in any given year.

**BASEMENT** A portion of a building which is partly underground, but in which more than one-half of its height, measured from floor to ceiling, is above the average finished grade at the point where the grade meets the exterior walls of the building. (See also Cellar)

**BEAUTY SHOP** See "Personal Service Establishment."

**BED AND BREAKFAST ESTABLISHMENT** A single family dwelling in which the residents thereof provide overnight accommodation and a morning meal to transient lodgers. A bed and breakfast establishment shall contain a maximum of five (5) bedrooms available for overnight guests.

**BOARD OF APPEALS** The Zoning Board of Appeals of the Village of Little Valley, Cattaraugus County, New York.

**BOARDING HOUSE** An owner-occupied single family residence where up to five rooms are provided for lodging for definite periods of time. Meals may or may not be provided, but there is one common kitchen facility. No meals are provided to outside guests.

**BOARDER** A person who occupies a bedroom or room as a lodging unit within a boarding house on a long-term residential basis for a fee.

**BOTTLING PLANT** An industrial establishment in which bulk soft drinks, water and similar, non-alcoholic beverages are placed in individual bottles for eventual sale to retail stores. Warehousing and wholesale distribution of the product may occur, but no direct retail sales are allowed.

**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.

**BREAST HEIGHT** A measurement of the diameter of a tree that is taken four and one-half (4 ½) feet from the ground.

**BUILDABLE AREA** The space remaining on a zoning lot after the minimum yard requirements of this law have been complied with.

**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** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured from exterior wall to exterior wall.

**BUILDING, ACCESSORY** See "Accessory Building."

**BUILDING CODE ENFORCEMENT OFFICER** The official who is responsible for enforcing the Village's Building Code.

**BUILDING HEIGHT** See "Height."

**BUILDING PERMIT** Written approval from the Building Code Enforcement Officer to develop, construct or alter a structure or building.

**BUILDING SETBACK LINE** See "Setback line."

**BULK FUEL STORAGE** The commercial storage of crude petroleum, gasoline, naphtha, benzene, benzol, kerosene, propane, compressed natural gas (CNG), or other flammable liquid

that has a flash point at or below two hundred degrees Fahrenheit (closed cup tester), for wholesale sale or for delivery to customers off-site, regardless of whether the fuel is stored above the ground, underground, or in mobile tank cars or trucks.

**CALIPER** A measurement of the diameter of a tree, measured at breast height.

**CAMPER** See "Trailer."

**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 campground use, such as administration offices and laundry facilities, but not including the residential use of manufactured homes on a year round basis; or

(2) 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. Types of camps include YMCA campgrounds and summer camp programs.

**CELL** The geographical area serviced by a BTS (base transceiver station).

**CELLAR** A portion of a building which is wholly or partly underground and in which more than one-half of its height, measured from floor to ceiling, is below the average finished grade at the point where the grade meets the exterior walls of the building. (See also Basement).

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

**CERTIFICATE OF OCCUPANCY** A permit issued by the Building Code Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building, under the provision of the Village's building code.

**CIVIC FACILITY** Buildings, structures, and other facilities owned and operated by the Village of Little Valley and regularly used for neighborhood meetings and other forms of public assembly.

**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.

**COMMERCIAL ESTABLISHMENT** A business use or activity, at a scale greater than a home based business, involving retail marketing of goods and services. 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.

**COMMERCIAL RECREATION ESTABLISHMENT, INDOOR** A commercial recreation land use, conducted entirely within a building. Types of indoor commercial recreation include bowling alleys, athletic and health clubs, gymnasiums, skating rinks, swimming pools, tennis courts, and billiard halls.

**COMMERCIAL RECREATION ESTABLISHMENT, OUTDOOR** A commercial recreation land use, conducted out-of-doors or in a partly enclosed or screened facility. Typical uses include golf driving ranges, miniature golf, swimming pools, tennis courts, and skate parks (rollerblades, skateboards, and similar equipment). However, commercial recreation shall not include rentals of or tracks for riding ATVs, dirt bikes, or similar vehicles.

**COMMERCIAL SCHOOL** A school conducted for the purpose of gain, including dancing schools, music schools, business and secretarial schools.

**CONSIGNMENT STORE** A retail establishment engaged in selling used merchandise, such as clothing, furniture, books, or household appliances, on consignment, or a retail establishment engaged in selling donated, used merchandise that is operated by an organization granted federal tax exemption pursuant to section 501(c)(3) of the Internal Revenue Service Code. Merchandise is brought to the establishment and processed by marking, cleaning, sorting, and storing as a part of the principal use. A consignment store does not include establishments selling used motor vehicles, auto parts or scrap.

**CONTRACTOR'S YARD** A yard of any general contractor or builder where equipment and materials are stored or where a contractor performs shop or assembly work.

**COVERAGE** That percentage of the lot area covered by the building area.

**CULTURAL FACILITY** Public libraries, museums, art galleries and other similar community institutions.

**DAY CARE CENTER, 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.

**DAY CARE CENTER, ADULT** A facility providing care for the elderly and/or functionally impaired adults in a protective setting for periods of less than 24 hours per day.

**DECIDUOUS** A plant that loses its leaves at least once during the year.

**DEVELOPMENT** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**DISTRIBUTION CENTER** A building or structure where goods are received and/or stored for delivery to the ultimate customer at remote locations.

**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, TWO-FAMILY** A building that contains two dwelling units.

**DWELLING, MULTIPLE FAMILY** A building that contains three or more separate dwelling units.

**ESSENTIAL SERVICES** The erection, construction, alteration, or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings. "Essential Services" shall not include "Telecommunications Facilities."

**EVERGREEN** A plant that holds its leaves throughout the year.

**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.

**FAIRGROUNDS** An area in which buildings, structures and land are used for the temporary exhibition of livestock, farm products, dog and pet shows, and similar activities, and for farm-related competitions, such as horse shows, county fairs, and similar activities. Fairgrounds may also be used for exhibitions, entertainments, storage of personal property, and other activities so designated in Section 290 of New York Agriculture and Markets Law.

**FAMILY** One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this law as an accessory use.

**FARM STAND** An accessory use in which agricultural products are sold on a seasonal basis. Agricultural products includes items such as farm produce, Christmas trees, maple syrup, wool, and home-made jams, jellies, pies and other baked goods, and canned goods. There shall be no resale of produce, baked goods, or other products purchased off the premises.

**FARMERS' MARKET** An occasional or periodic commercial activity, held outdoors or in a structure, where home-grown agricultural products, vegetables, berries, fruits and other produce are offered for sale to the general public by individual vendors from open or semi-open, temporary stands, stalls, or spaces. Homemade pies, baked goods, jams and jellies may also be sold. The vendors are the individuals or family members of the individuals who have grown the produce.

**FEED STORE** An establishment engaged in the retail sale of supplies directly related to the day-to-day activities of agricultural production, such as seed, fertilizer, and animal feed, but not including farm machinery such as tractors.

**FENCE** An artificially constructed barrier of wood, masonry, stone, wire, metal or other similar material or combination of materials, which is erected to enclose, screen or separate areas of land.

**FENCE, OPAQUE** A fence whose vertical surface is constructed from or covered by a solid or opaque material through which no complete visual images can be seen.

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

**FLEA MARKET** An occasional or periodic commercial activity, held outdoors or in a structure, where goods are offered to the general public by individual sellers from open or semi-open, temporary stands, stalls, or spaces.

**FLOOD or FLOODING** A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "Flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

**FLOOR AREA, GROSS** The sum of the horizontal areas of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings.

**FLOOR AREA, GROSS COMMERCIAL AND INDUSTRIAL** The gross floor area of a building, or portion of a building, devoted to such uses, including accessory storage areas located within selling or working space, such as counters, racks or closets and any basement floor areas devoted to retailing activities, to the production or processing of goods or to business or professional offices.

**FLOOR AREA, GROSS RESIDENTIAL** The gross floor area of a building, but excluding any porch, deck, verandah, unfinished attic, basement or cellar, carport, garage or sunroom (unless such sunroom is habitable at all seasons of the year).

**FLORIST** A retail establishment whose principal activity is the selling of cut flowers or ornamental plants, which are not grown on the premises. A florist may also sell greeting cards and other gift items.

**FINISHED GRADE** See "Grade, finished."

**FOOD PROCESSING ESTABLISHMENT** A commercial establishment in which food is processed or otherwise prepared for human consumption, but the food is not consumed on the premises. A food processing establishment shall not include a slaughterhouse or meat processing plant.

**FORESTRY** The use of land for the purpose of conservation and/or the growing and cutting of trees, but shall not include sawmills, processing of wood products or manufacturing.

**FRONTAGE** The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.

**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.

**GARAGE SALE** See "Yard Sale."

**GARDEN CENTER** A retail and/or wholesale establishment in which garden supplies are sold. Items sold may include plants, potting soil, mulch, hoses, rakes, and other garden tools, and similar merchandise. No plants are grown on the site.

**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 collision service or painting.

**GASOLINE STATION WITH MINI-MARKET** A place 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** A public or private area operated for the purpose of playing golf, and which may include a club house and accessory driving ranges.

**GRADE, FINISHED** The elevation at which the finished surface of the surrounding lot meets the walls or supports of a building or structure. If the finished grade is not reasonably horizontal, the average elevation of all sides of the structure shall be used for purposes of computing the height of the 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** A building for the growing of flowers, plants, shrubs, trees and similar vegetation, which are sold, either at wholesale or retail, directly from the lot on which the greenhouse is located. Other gardening supplies, such as mulch and potting soil, may also be sold.

**GROCERY STORE** A retail establishment primarily selling packaged food and household supplies. Sides of beef and other large cuts of meat may be cut and packaged for sale on site.

**HARDWARE STORE** A retail establishment which sells basic hardware items such as tools, nails, screws, plumbing and electrical supplies, paint and glass.

**HEIGHT** For a building or other enclosed structure, the height is the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to:

- (1) the highest point of the roof for flat roofs
- (2) the deck line of mansard roofs
- (3) the mean height between eaves and ridge for gable, hip and gambrel roofs

For a tower or other structure that does not have a roof, the height is the vertical distance measured from the average elevation of the proposed finished grade to the highest point on the structure, including any base pad, antenna or other appurtenant device.

#### **HISTORIC RESOURCE**

- (1) Any historic building, structure, facility, site or prehistoric site that is listed on the State and/or National Registers of Historic Places.
- (2) 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.
- (3) 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 or 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 also Article 11.

**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.

**HOUSEHOLD PET** Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include, but are not limited to, dogs, cats, rabbits, domestic birds such as parrots and parakeets, domestic mice and rats, and domesticated snakes.

**INDUSTRIAL ESTABLISHMENT** A business use or activity, at a scale greater than a home based business, that involves manufacturing, fabrication, assembly, warehousing, and/or storage. Examples of industrial establishments include manufacturing, welding establishments and research and development facilities.

**INN** See Hotel.

**JUNK** One or more of the following items: junk appliance, junk furniture, junk mobile home, junk motorized equipment, junk vehicle, litter, rubbish.

**JUNKYARD** A lot, land or structure, or part thereof, used for the collection, storage, packing, and/or sale of waste paper, scrape metal, rags, junk, or similar waste material, including the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts.

**JUNK APPLIANCE** Any stove, washing machine, dryer, freezer, refrigerator, air conditioner, television, or other household device or equipment which is abandoned, junked, discarded, wholly or partially dismantled or no longer in condition for ordinary use for the purpose for which it was originally intended.

**JUNK FURNITURE** Abandoned, discarded or irreparably damaged pieces of furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, chests of drawers and the like.

**JUNK MOBILE HOME** Any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living and/or sleeping purposes including manufactured homes built to the standards of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 and mobile homes built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which meets two out of three of the following conditions for six months or more:

1. The electrical service is disconnected or terminated;
2. It is abandoned as a dwelling unit;
3. It is no longer habitable for residential occupancy.

**JUNK MOTORIZED EQUIPMENT** Typical home tools, including but not limited to, lawn mowers, weed whackers; farm machinery; construction equipment and vehicles; motors; or parts thereof, which are no longer intended or in condition for ordinary and customary use.

The term "junk motorized equipment" does not include inoperable farm or construction vehicles, implements, equipment or machinery retained for the purpose of salvaging usable parts in connection with the ongoing operation of an on-site farm or construction business, provided that such items are stored within a consolidated area out of the public view.

**JUNK VEHICLE** Any motor vehicle, or used parts or waste materials from such vehicles which, taken together, equal in bulk one or more such vehicle(s), which meets two or more of the following criteria:

1. It is unlicensed;
2. It is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled;
3. It is not in condition for legal use upon the public highway.

With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk vehicle unless refuted by verifiable and credible proof.

**KEEPING OF CHICKENS** An accessory use to the primary single family residential use of a property, in which hens (female chickens) are kept for the personal use of the residents of the property on which they are located. No sale of eggs or chickens is permitted.

**KEEPING OF HORSES** An accessory use to the primary single family residential use of the property, in which the horses are for the recreational use of residents of the property on which the horses are kept. No commercial riding or boarding is allowed. See also Section 11.19.

**KENNEL** Any place where more than four (4) dogs, cats, or other household pets over three months of age are kept, raised, sold, boarded, or bred.

**LANDSCAPING** Any combination of living plants (such as grass, ground cover, shrubs, vines hedges, or trees) and nonliving landscape material (such as rocks, pebbles, mulch, walls, fences, or decorative paving materials).

**LAUNDROMAT** A building where coin-operated laundry machines, using only water, detergents and additives, are made available to the public.

**LIBRARY** A building containing printed and pictorial material for public use for purposes of study, reference and recreation.

**LINE, STREET** See "street line."

**LITTER** Garbage and/or rubbish as herein defined and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

**LIVESTOCK** Poultry, dairy and beef cattle, horses, oxen, sheep, goats, swine and pigs, llamas, alpacas, bison, ostriches and emus, or any similar domesticated or semi-domesticated animal, but not including household pets.

**LOADING AND UNLOADING SPACE, OFF-STREET** An open hard-surfaced area of land other than a street or a public way, the principal use of which is for standing, loading and unloading of motor vehicles, tractors and trailers to avoid undue interference with public streets and alleys.

**LOT** A parcel of land with frontage on a street or road, whether or not occupied by a building or structure, which is in one ownership.

**LOT AREA** See "Area, Lot."

**LOT, CORNER** A lot located at the intersection of, and abutting upon, two or more streets. A corner lot is not a through lot.

**LOT COVERAGE** See "Coverage."

**LOT DEPTH** The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

**LOT FRONTAGE** See "Frontage."

**LOT LINES** The property lines bounding a lot. The front lot line shall be the right-of-way line of the street or highway giving access to the lot. In the case of a corner lot, the owner may designate either street lot line as the front 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, THROUGH** A lot having frontage on two parallel or approximately parallel streets and which is not a corner lot.

**LOT WIDTH** The mean horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.

**LUMBER AND BUILDING MATERIALS STORAGE AND SALES** A building or structure in which lumber, and other building, construction and home improvement materials are offered for retail sale.

**MACHINE SHOP** A tool and die making facility that may contain equipment such as lathes and milling machines.

**MANUFACTURED HOME** A transportable, factory-built home 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), which became effective June 15, 1976. A manufactured home is sometimes referred to as a "HUD Code home." The term "Manufactured Home" does not include a mobile home or a trailer.

**MANUFACTURING** The making of goods and articles by hand or machine process. All manufacturing activities shall comply with the performance requirements set forth in Article 11 of this law.

**MEAT PROCESSING PLANT** An industrial establishment in which meat and poultry are cooked, cured, smoked or otherwise processed and/or packed, but which does not include a slaughterhouse.

**MEDICAL CLINIC** 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.

**MICRO-BREWERY** An industrial facility at which beer is produced and bottled and at which wholesale and retail storage and distribution may occur. The volume of production of such facility may not exceed 15,000 barrels per year. The facility may have a tasting room for the consumption and sales of products produced on site.

**MICRO-DISTILLERY** A small-scale, craft alcohol production facility, which may include the production of distilled spirits, hard ciders, and/or wine. The volume of production of such a facility may not exceed 35,000 gallons per year. The facility may have a tasting room for the consumption and sales of products produced on site.

**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 trailer.

**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** A hotel primarily for transients traveling by automobile, with a parking space on the lot for each lodging unit, and with access to each such unit directly from the outside. A motel may or may not include group dining facilities.

**MOTOR VEHICLE** All vehicles propelled or drawn by power other than muscle power originally intended for use on public highways, including but not limited to automobiles, buses,

trailers, trucks, tractors, motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and overnight trailers, motorcycles, and mini-bicycles. This term shall also include all terrain vehicles, and snowmobiles.

**NATURAL GRADE** See "Grade, Natural."

**NON-CONFORMING BUILDING** Any building, legally existing at the time of enactment of this law, which does not meet the regulations on building size or location on a lot for the district in which such building 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 building, 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.

**NURSERY SCHOOL** A privately-owned school for two or more children ages two to five, which provides instruction.

**NURSING HOME** A building in which the proprietor, either for profit or not-for-profit, supplies lodging and meals and in addition, provides nursing, medical or similar care and treatment. A nursing home includes a rest home or a convalescent home.

**OFFICE** A building or portion of a building wherein services are performed involving predominately administrative, professional, or clerical operations. "Office" includes medical offices. An office shall not include a retail commercial use, any industrial use, medical clinic, financial institution or place of amusement or place of assembly.

**OPACITY** The obscurance of light caused by an emission of air pollution.

**OPEN SPACE** An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, buffers, active and passive recreation areas, playgrounds, fountains, wooded areas, and water courses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

**PARK** A public or not-for-profit facility that is predominately open space, used principally for active or passive recreation, for environmental or habitat protection or for scenic purposes.

**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 or customers or residents, but does not include the storing of impounded or wrecked vehicles.

**PARKING SPACE** An area exclusive of driveways, ramps, or columns, in which one vehicle can be parked.

**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, laundry or dry-cleaning shops, and shoe repair shops.

**PET GROOMING ESTABLISHMENT** A commercial establishment where household pets are bathed, groomed, clipped, or combed, for a fee.

**PHARMACY** See Drug Store.

**PHOTOGRAPHIC STUDIO** Premises used for portrait and commercial photography, including developing and processing of film, sale of film and photographic equipment, and repair or maintenance of photographic equipment.

**PLACE OF WORSHIP** A structure owned or leased by a religious organization, which people regularly attend to participate in or hold religious services, meetings or other related religious activities. A "place of worship" includes churches, synagogues, temples, and mosques.

**PLANNED UNIT DEVELOPMENT** A site upon which residential, commercial, recreational or other uses or any combination thereof may be authorized, in a flexible manner so as to achieve the goals of the Village of Little Valley Comprehensive Land Use Plan.

**PLANNED UNIT DEVELOPMENT DISTRICT** An independent, free-standing zoning district, wherein the zoning regulations need not be uniform for each class or kind of land use, but where the use of land is in accordance with a preliminary planned unit development plan approved by the Village Board of Trustees.

**PLANNED UNIT DEVELOPMENT PLAN** A proposal for planned unit development prepared in such detail and showing the information required in Article 13 of this local law, including, but not limited to, information depicted in words, maps, plans or drawings relating to proposed land uses; location and dimension of buildings; architectural features; lot sizes, setbacks and height limits; required facilities; buffers, screening, open space areas, lighting, signage and landscaping; parking and loading; traffic circulation; protection of natural resources; public or private amenities; and adjacent land uses and physical features.

**PLANNING BOARD** The Planning Board of the Village of Little Valley.

**PLANT CULTIVATION** Land used for the production of farm crops such as vegetables and fruits, grain, and corn, and related buildings. Plant cultivation does not include the commercial raising of animals, swine or poultry, or commercial feed lots.

**PLANT NURSERY** Land used for the growing of sod, flowers, bushes, trees or other gardening, landscaping or orchard stock for wholesale or retail sale.

**PRINCIPAL STRUCTURE** A structure in which the primary use of the lot is conducted.

**PRINCIPAL USE** The primary purpose for which a lot is used.

**PRIVATE SCHOOL** A privately-owned academic or religious school, whose primary purpose is to provide an academic education for children in grades pre-Kindergarten through twelve.

**PUBLIC SCHOOL** A publicly-owned school, whose primary purpose is to provide an academic education for children in grades pre-kindergarten through twelve.

**PUBLIC USE** Administrative, cultural, maintenance and service buildings and lots owned and used by any agency or department of the village, town, fire district, county, state or federal government. See also "park" and "school."

**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 vehicle built on a single chassis and designed to be either self propelled or towed by another vehicle. A recreation vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as trailers, campers, and travel trailers. A recreation vehicle is not a manufactured home or a mobile home.

**REPAIR SHOP, GENERAL** An establishment, which primarily caters to individuals and households, rather than businesses, engaged in the provision of repair services for household items such as appliances, vacuum cleaners, television sets, computers and similar items. General Repair Shop may include activities such as the replacement of glass in windows, doors, and automobiles, but does not include an "automobile repair shop" or "automobile body shop." A

General Repair Shop deals in items that are generally more bulky than those serviced in a Personal Service Repair Shop.

**REPAIR SHOP, PERSONAL SERVICE** An establishment in which are repaired personal items such as clothing, shoes, and jewelry.

**RESEARCH AND DEVELOPMENT FACILITIES** A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

**RESTAURANT** An 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-THROUGH** An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

**RETAIL BUSINESS** 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.

**RETAIL BUSINESS, LARGE** A retail business that contains more than 35,000 square feet of gross floor area on the first floor.

**RETAIL BUSINESS, SMALL** A retail business that contains 35,000 square feet or less of gross floor area on the first floor.

**RINGLEMANN CHART** A chart, developed and published by the US Department of the Interior, Bureau of Mines, on which the density of equivalent opacity of smoke is illustrated by increasingly dense shades of gray. The shades range from 0 for clear to 5 for completely opaque. For example, a reading of Ringlemann Number 1 indicates a twenty percent density (opacity) of the smoke observed.

**RUBBISH** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials; paper, rags, cartons, boxes, barrels, wood, excelsior, rubber, leather, tree branches, yard trimmings, leaves, cans, bottles, metals, mineral matter, plastics, glass, crockery; wood furniture and bedding; small quantities of rock, brick and concrete; dirt, dust and ashes; dead animals; and any and all tangible personal property no longer intended or in condition for ordinary and customary use; and other similar materials.

**SCENIC RESOURCE** Any road, highway, lane, district or corridor designated pursuant to Article 49 of the New York State Environmental Conservation Law or any area designated a

Scenic Area of Statewide Significance pursuant to the NYS Coastal Management Program.

**SCHOOL** A facility, either public or private, that provides a curriculum of elementary and/or secondary academic instruction, including kindergartens, elementary schools, junior high schools and/or high schools.

**SCHOOL, COMMERCIAL** See "commercial school."

**SCHOOL, PRIVATE** See "private school."

**SCHOOL, PUBLIC** See "public school."

**SELF-SERVICE STORAGE FACILITY** A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations or businesses for self-service storage of personal property.

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

**SETBACK LINE** A line within a lot, parallel to a corresponding lot line, which is the boundary of any specified front, side, or rear yard, or a line otherwise established to govern the location of buildings, structures, or uses. Where no minimum front, side, or rear yards are specified, the setback line shall be coterminous with the corresponding lot line.

**SETBACK, REAR** The minimum allowable distance from the rear lot line to the closest point of a building or structure. The rear setback shall extend the full width of a lot.

**SHRUB** a self-supporting woody perennial plant of low stature, characterized by multiple stems and branches growing from the base.

**SIGN** Any letter, word, symbol, drawing, picture, design, device, article or object that advertises, calls attention to or indicates any premises, persons, products, businesses or activities, whatever the nature of the material and the manner of composition or construction. The term "sign" shall not include any flag, badge, or insignia of any governmental unit, nor shall it include any item of merchandise normally displayed within a window of a business.

**SIGN AREA** The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure. Also referred to as the "sign face."

**SIGN, AWNING** Any visual message incorporated into an awning attached to a building.

**SIGN, DIRECTIONAL** A sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians on the site.

**SIGN FACE** See "sign area."

**SIGN, FREE-STANDING** Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure. A free-standing sign may include a pole sign, a post sign or a ground sign.

**SIGN, GROUND** A type of freestanding sign, not supported by a pole, in which the entire bottom of the sign is generally in contact with or in close proximity to the ground.

**SIGN, ILLUMINATED** Any sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, and which includes reflective and phosphorescent light.

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

**SIGN, POLE** A freestanding sign that is affixed, attached or erected on a pole that is not itself an integral part of or attached to a building or structure.

**SIGN, POST** A freestanding sign that is attached or erected on one or two posts or stakes, and that is not attached to a building or structure.

**SIGN, PORTABLE** A sign, whether on its own trailer, wheels, or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.

**SIGN, PROJECTING** A sign which is attached to the building wall or structure and which extends horizontally more than twelve inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.

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

**SIGN, SNIPE** An off-premises sign that is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or other objects.

**SIGN, VEHICLE** 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.

**SIGN, WALL** Any sign attached parallel to a wall or painted on the wall surface, which is supported by such wall and which displays only one sign surface.

**SIGN, WINDOW** A sign painted or affixed on glass or other window material and which is visible from the exterior of the window.

**SITE PLAN** A scale drawing showing the relationship between the lot lines and building or structures, existing or proposed on a lot, including such details as parking areas, access points,

landscaped areas, building areas, setbacks from lot lines, building heights, and densities. See also Article 10 of this law.

**SLAUGHTERHOUSE** An industrial facility for the for-profit slaughtering of animals that are either raised on-site or transported to the site, and/or the processing and storage of animal products and waste that results from the slaughtering process. Seasonal deer processing shall not be considered a "slaughterhouse."

**SPECIAL USE** Any use of land or buildings or both that require special approval from the Zoning Board of Appeals as described herein. See also Article 9 of this law.

**SPECIFIED ANATOMICAL AREAS** As used herein, specified anatomical areas means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernible turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** As used herein, specified sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 3 of this subsection.

**STACKING SPACE** An on-site area for temporary queuing of motor vehicles while waiting for entry to any drive-in facility or auto-oriented use.

**STORY** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between the floor and the ceiling next above it. A basement shall be considered a story; however, a cellar shall not be considered a story.

**STORY, HALF** The portion of a building located wholly or in part within a sloping roof and in which there is sufficient space to provide a height between finished floor and finished ceiling of at least seven feet, six inches over a floor area equal to at least fifty percent of its total floor area.

**STREET** A public or private way which affords the principal means of access to abutting properties.

**STREET LINE** The dividing line between the street and the lot.

**STRIPPING OF TOPSOIL** An open land area where top soil is stripped as an industrial operation for sale or off-site use. This definition shall not include grading a lot in preparation for construction of a building.

**STRUCTURAL ALTERATIONS** Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams and girders. (Also see "alterations.")

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

**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 and/or personal communication device operation (also known as base transceiver station or BTS).

**TELECOMMUNICATIONS TOWER** A structure on which one or more antenna 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.

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

**THRIFT SHOP** A retail establishment primarily engaged in the sale of previously owned or used household goods and merchandise, such as records, books, clothing, and furniture.

**TOWNHOUSE** A single-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally, in a linear arrangement, by common or party walls without openings. Each townhouse has totally exposed front and rear walls that provide access, light, and ventilation. Townhouses may also be known as row houses.

**TRAIL HEAD** A point of access to or egress from a recreational trail. The trail head may contain facilities for trail users, such as bicycle racks and picnic facilities.

**TRAILER** A vehicle so constructed as to be suitable for attachment to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, and capable of being used for the temporary living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked up. A self-propelled recreational vehicle shall also be construed to be a trailer. A trailer is not a mobile home or a manufactured home.

**TREE** a self supporting woody plant normally growing to a mature height of at least 15 feet.

**USE** The purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

**USE, ACCESSORY** See "Accessory Use."

**USE, PRINCIPAL** See "Principal Use."

**USE, SPECIAL** See "Special Use."

**USE VARIANCE** See "Variance, Use."

**VARIANCE, AREA** The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

**VARIANCE, USE** The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

**VETERINARY CLINIC** 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.

**VILLAGE BOARD** The Village Board of Trustees of Little Valley, Cattaraugus County, New York.

**WAREHOUSE** A building used primarily for the storage of goods and materials.

**WHOLESALE BUSINESS** 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. Retail sales may be allowed as an accessory use.

**YARD** An unoccupied space, open to the sky, on the same lot with a building or structure.

**YARD, FRONT** The open, unoccupied space on a lot, which extends across the full width of the lot between the front lot line and the nearest wall or supporting member of a building or structure. Where the front wall of an enclosed porch or verandah extends in front of such building or structure, the front wall shall be deemed to be the front wall of said porch or verandah.

**YARD, REAR** That open area of a lot which extends across the full width of a lot between the rear lot line and nearest wall or supporting member of a principal building or structure.

**YARD, SIDE** That open area of a lot which extends from the front yard to the rear yard of a lot between a side lot line and the nearest wall of the principal building on the lot. If there is no required front yard or rear yard, the side yard shall extend from the front lot line to the rear lot line.

**YARD SALE** The sale of personal property belonging to the occupants of the dwelling unit on whose premises the sale is conducted.

**ZERO LOT LINE DEVELOPMENT** A planned unit development in which a detached single-family dwelling unit is sited on two or fewer lot lines, leaving no required yard on that side(s) of the lot. This configuration permits site design flexibility, while increasing the quantity of usable yard space on the lot.

**ZONING OFFICER** The official who is responsible for the administration and enforcement of this zoning law.

**ZONING MAP** The map or maps incorporated into this law as a part hereof, designating zoning districts.

**ZONING PERMIT** A permit issued by the Zoning Officer, prior to the issuance of a building permit, which certifies that a proposed structure or use meets all the regulations of this zoning law.

## **ARTICLE 3 GENERAL PROVISIONS**

### **Section 3.1 General Regulations**

- (A) **Uses Prohibited.** Any use not specifically permitted in this law shall be deemed to be prohibited, and shall not be allowed except upon amendment to this zoning law.
- (B) **Minimum Requirements.** The provisions of this zoning local law shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare.
- (C) **Relationship with Other Laws.** Where the conditions imposed by any provision of this zoning law upon the use of land or buildings, or upon the bulk of buildings, 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.
- (D) **Effect on Existing Agreements.** This law is not intended to abrogate any easement, covenant or any other private agreement, provided that where the regulations of this local law are more restrictive, or impose higher standards or requirements, than such easements, covenants or other private agreements, the requirements of this local law shall govern.

### **Section 3.2 Application of Regulations**

- (A) **Application.** Except as hereinafter provided:
- (1) No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
  - (2) No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller yards specified herein for the district in which such a building is located.
  - (3) No part of a yard or other open space about any building required for the purpose of complying with the provisions of this local law shall be included as a part of a yard or other open space similarly required for another building.
  - (4) No lot, yard, setback, frontage, parking area or other space shall be so reduced in area, dimension or capacity as to make said area, dimension or capacity less than the

minimum required under this local law. If already less than the minimum required under this local law, said area, dimension or capacity shall not be further reduced.

- (B) Responsibility.** The final responsibility for the conforming of buildings and use to the requirements of this law shall rest with the owner or owners of such building or use and the property on which it is located.

### **Section 3.3 Lot Area and Dimension**

- (A) Contiguous Parcels.** When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.
- (B) Lots of Record.** Any lot of record, which existed at the time of adoption of this local zoning law, and which does not meet the requirements for minimum frontage, lot width and/or minimum area (lot size), may be used for a permitted use, without first obtaining an area variance, provided that the minimum yard requirements are not less than seventy-five (75) percent of the minimum required dimension and provided that the maximum lot coverage does not exceed seventy-five (75) percent of the maximum required percentage.

### **Section 3.4 Access to Street**

Except as otherwise provided for in this local law, every building or structure shall be constructed or erected upon a lot which abuts upon an existing street or a street that is recorded on a subdivision plat recorded in the office of the Clerk of Cattaraugus County. However, a building or structure may be erected upon a lot having a permanent easement which provides access to a street, where such easement is properly recorded in the office of the Clerk of Cattaraugus County prior to the issuance of a building permit for any structure on the lot.

## **ARTICLE 4 ESTABLISHMENT OF DISTRICTS**

### **Section 4.1 Districts**

For the purposes and provisions of this local zoning law, the Village of Little Valley establishes the following zoning districts:

R-1	Village Residential District
R-2	Rural Residential District
R-3	General Residential District
C-F	Community Facilities District
B-1	Village Business District
B-2	General Business District
I-1	General Industrial District
I-2	Special Industrial District
F-O	Floodplain Overlay District
P-R	Public Recreation District

### **Section 4.2 Zoning Map**

The locations and boundaries of the aforesaid zoning districts are hereby established on a scaled map, entitled "Village of Little Valley Zoning Map," which is kept on file by the Village 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 4.3 Interpretation of District Boundaries**

In the event uncertainty exists regarding the boundaries of any of the aforesaid zoning districts shown on the zoning map, the following rules shall apply:

- (A) 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.
- (B) Where district boundaries are indicated as approximately following the Village of Little Valley boundary line, lot lines, or the projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- (C) Where district boundaries are indicated as approximately parallel to the Village of Little Valley boundary line, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed to be parallel thereto.

- (D) When a district boundary is questionable, it shall be referred to the Zoning Board of Appeals, who shall, to the best of their ability, establish the exact boundary, using the above criteria. This determination shall be considered final and conclusive, and may only be altered by amendment to the zoning map by the Village Board, following the procedures established in Article 14 of this law. A copy of the zoning map showing the determination of the Zoning Board of Appeals shall be kept on file by the Village Clerk.

#### **Section 4.4 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 4.5 Zoning of Streets, Alleys, Public Ways, Waterways and Rights-of Way**

Where the center line of a street, alley, public way, waterway, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

# **ARTICLE 5**

## **DISTRICT USE REGULATIONS**

### **Section 5.1 Zoning Districts**

#### **(A) Village Residential District (R-1)**

##### **(1) Purpose**

The purpose of the Village Residential District is to provide an opportunity for residential development at a scale appropriate to the Village, in an area that is served by municipal water and sewer services. A limited number of public and semi-public uses that are compatible with residential use may also be permitted.

##### **(2) Permitted and Special Permitted Uses**

The permitted principal uses and principal uses permitted with the issuance of a Special Use Permit pursuant to Article 9 of this Law that are allowed in the Village Residential (R-1) District are shown in Table 5.1 Land Use Table, Section 5.1(K) of this Law.

##### **(3) Permitted Accessory Uses and Structures**

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, and which are located on the same lot as the principal building or use, shall be allowed.

##### **(4) Dimensional Regulations**

All permitted uses, special permitted uses, and accessory uses shall conform to the dimensional regulations contained in Section 5.2 of this local zoning law.

#### **(B) Rural Residential District (R-2)**

##### **(1) Purpose**

The purpose of the Rural Residential District is to provide an opportunity for single-family residential development on larger lots and to provide an opportunity for outdoor recreational activities and limited agricultural and commercial activities that are compatible with residential development.

**(2) Permitted and Special Permitted Uses**

The permitted principal uses and principal uses permitted with the issuance of a Special Use Permit pursuant to Article 9 of this Law that are allowed in the Rural Residential (R-2) District are shown in Table 5.1 Land Use Table, Section 5.1(K) of this Law.

**(3) Permitted Accessory Uses and Structures**

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, and which are located on the same lot as the principal building or use, shall be allowed.

**(4) Dimensional Regulations**

All permitted uses, special permitted uses, and accessory uses shall conform to the dimensional regulations contained in Section 5.2 of this local zoning law.

**(C) General Residential District (R-3)****(1) Purpose**

The purpose of the General Residential District is to allow Village-scale residential development and to provide an opportunity for affordable housing, including manufactured homes.

**(2) Permitted and Special Permitted Uses**

The permitted principal uses and principal uses permitted with the issuance of a Special Use Permit pursuant to Article 9 of this Law that are allowed in the General Residential (R-3) District are shown in Table 5.1 Land Use Table, Section 5.1(K) of this Law.

**(3) Permitted Accessory Uses and Structures**

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, and which are located on the same lot as the principal building or use, shall be allowed.

**(4) Dimensional Regulations**

All permitted uses, special permitted uses, and accessory uses shall conform to the dimensional regulations contained in Section 5.2 of this local zoning law.

**(D) Community Facilities District (C-F)****(1) Purpose**

The purpose of the Community Facilities District is to recognize the Village of Little Valley's role as the seat of Cattaraugus County. To support and promote this role, the C-F District encourages and provides an opportunity for governmental offices and for other types of offices and land uses that support or are dependent upon the County government. An additional purpose of this district is to promote local governmental offices and facilities. Another purpose of this district is to allow residential uses.

**(2) Permitted and Special Permitted Uses**

The permitted principal uses and principal uses permitted with the issuance of a Special Use Permit pursuant to Article 9 of this Law that are allowed in the Community Facilities (C-F) District are shown in Table 5.1 Land Use Table, Section 5.1(K) of this Law.

**(3) Permitted Accessory Uses and Structures**

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, and which are located on the same lot as the principal building or use, shall be allowed.

**(4) Dimensional Regulations**

All permitted uses, special permitted uses, and accessory uses shall conform to the dimensional regulations contained in Section 5.2 of this local zoning law.

**(E) Village Business District (B-1)****(1) Purpose**

The purpose of the Village Business District is to permit and promote opportunities for a diversity of retail businesses and personal services that meet the needs of the residents of the Village of Little Valley and surrounding areas, as well as providing services for visitors to the Village. Another purpose of this district is to allow a mix of land uses, so that the Village will be an exciting place in which to work, shop and live. Therefore, residential development, such as apartments over commercial establishments and multiple family dwellings are encouraged. Development in this district shall be consistent with the historic character of the downtown village center. Emphasis shall be on pedestrian-oriented, rather than automobile-dependent, development.

**(2) Permitted and Special Permitted Uses**

The permitted principal uses and principal uses permitted with the issuance of a Special Use Permit pursuant to Article 9 of this Law that are allowed in the Village Business (B-1) District are shown in Table 5.1 Land Use Table, Section 5.1(K) of this Law.

**(3) Permitted Accessory Uses and Structures**

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, and which are located on the same lot as the principal building or use, shall be allowed.

**(4) Dimensional Regulations**

All permitted uses, special permitted uses, and accessory uses shall conform to the dimensional regulations contained in Section 5.2 of this local zoning law.

**(F) General Business District (B-2)**

**(1) Purpose**

The purpose of the General Business District is to permit and promote opportunities for retail, commercial and service uses that meet the needs of the residents of the Village of Little Valley, surrounding areas, and visitors. This district may contain uses that are automobile dependent.

**(2) Permitted and Special Permitted Uses**

The permitted principal uses and principal uses permitted with the issuance of a Special Use Permit pursuant to Article 9 of this Law that are allowed in the General Business (B-2) District are shown in Table 5.1 Land Use Table, Section 5.1(K) of this Law.

**(3) Permitted Accessory Uses and Structures**

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, and which are located on the same lot as the principal building or use, shall be allowed.

**(4) Dimensional Regulations**

All permitted uses, special permitted uses, and accessory uses shall conform to the dimensional regulations contained in Section 5.2 of this local zoning law.

**(G) General Industrial District (I-1)****(1) Purpose**

The purpose of the General Industrial District is to provide an opportunity for light industrial and commercial development that will promote balanced employment and a diversified tax base, but which will not adversely affect the health, safety and welfare of the residents of the Village or surrounding areas. An additional purpose of this district is to allow recreational and commercial uses that are compatible with the adjacent recreational trail.

**(2) Permitted and Special Permitted Uses**

The permitted principal uses and principal uses permitted with the issuance of a Special Use Permit pursuant to Article 9 of this Law that are allowed in the General Industrial (I-1) District are shown in Table 5.1 Land Use Table, Section 5.1(K) of this Law.

**(3) Permitted Accessory Uses and Structures**

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, and which are located on the same lot as the principal building or use, shall be allowed.

**(4) Dimensional Regulations**

All permitted uses, special permitted uses, and accessory uses shall conform to the dimensional regulations contained in Section 5.2 of this local zoning law.

**(H) Special Industrial District (I-2)****(1) Purpose**

The purpose of the Special Industrial District is to provide an opportunity for light industrial and commercial development that will promote balanced employment and a diversified tax base, but which will not adversely affect the health, safety and welfare of the residents of the Village or surrounding areas. An additional purpose of this district is to provide a location for uses that are not appropriate elsewhere in the Village.

**(2) Permitted and Special Permitted Uses**

The permitted principal uses and principal uses permitted with the issuance of a Special Use Permit pursuant to Article 9 of this Law that are allowed in the Special Industrial (I-2) District are shown in Table 5.1 Land Use Table, Section 5.1(K) of this Law.

**(3) Permitted Accessory Uses and Structures**

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, and which are located on the same lot as the principal building or use, shall be allowed.

**(4) Dimensional Regulations**

All permitted uses, special permitted uses, and accessory uses shall conform to the dimensional regulations contained in Section 5.2 of this local zoning law.

**(I) Floodplain Overlay District (F-O)****(1) Purpose**

The purpose of the Floodplain Overlay District is to protect to the maximum extent practical the health, safety and welfare of the residents of the Village of Little Valley and to minimize the 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 area or uses permitted within the floodplain area will be free from flooding or flood damage.

**(2) Applicability**

The Floodplain Overlay District shall include all areas identified as areas of special flood hazard within the Village of Little Valley by the Federal Emergency Management Agency (FEMA). The areas of special flood hazard are identified and defined on the Flood Boundary and Floodway Map, 360082-0001B, dated February 1, 1978, as may be amended from time to time.

**(3) Permitted, Accessory and Special Permitted Uses**

The permitted uses, special permitted uses and permitted accessory uses in the Floodplain Overlay District shall be those uses permitted in Table 5.1 Land Use Table, Section 5.1(K) of this Law, for the underlying zoning district. However, such uses shall be subject to the special restrictions contained in Local Law 1-1987, Flood Damage Prevention.

**(4) Dimensional Regulations**

All permitted uses, special permitted uses, and accessory uses shall conform to the dimensional regulations contained in Section 5.2 of this Zoning Law for the underlying zoning district. In addition, any development shall conform to any applicable special dimensional restrictions contained in Local Law 1-1987, Flood Damage Prevention.

**(J) Public Recreation District (P-R)****(1) Purpose**

The purpose of the Public Recreation District is to recognize the unique role of the Cattaraugus County Fairgrounds in the Village of Little Valley. The Village recognizes the importance of agricultural activities in the county, both historically and as a continuing important resource in the county's economy. The purpose of this district is to encourage the continuation of the county fair in Little Valley and to support other activities of the Agricultural Society that are compatible with adjacent residential uses.

**(2) Permitted and Special Permitted Uses**

The permitted principal uses and principal uses permitted with the issuance of a Special Use Permit pursuant to Article 9 of this Law that are allowed in the Public Recreation (P-R) District are shown in Table 5.1 Land Use Table, Section 5.1(K) of this Law.

**(3) Permitted Accessory Uses and Structures**

Accessory uses and structures that are customarily incidental and subordinate to the use of the District as a fairgrounds shall be allowed. These include, but are not limited to, the following uses:

Parking lots  
Administrative Offices

**(4) Dimensional Regulations**

All permitted uses, special permitted uses, and accessory uses in the Public Recreation District shall conform to the dimensional regulations contained in Section 5.2 of this local zoning law.

**(K) Land Use Table**

Table 5.1, Land Use Table, which is located on the following pages, contains the Permitted and Special Permitted land uses in each zoning district. Uses that are designated with a “P” are permitted as-of-right in that zoning district. Uses that are designated with an “SP” are permitted with the grant of a Special Use Permit by the Zoning Board of Appeals in accordance with the provisions of Article 9 of this Zoning Law. Site Plan review by the Zoning Board of Appeals in accordance with the provisions of Article 10 of this Zoning Law may also be required for Permitted and Special Permitted land uses, before a building permit can be issued.

Land Uses that are not designated with a letter are **not permitted**, unless either a use variance is granted by the Zoning Board of Appeals in accordance with the provisions of Article 8 of this Zoning Law or the Village Board of Trustees amends the Land Use Table pursuant to the provisions of Article 14 of this Law, to incorporate another land use.

In the event that uncertainty arises as to whether or not a particular land use is allowed in a zoning district according to the Land Use Table, any person may apply to the Zoning Board of Appeals for an interpretation of the Zoning Law to determine if a use is included within one of the uses listed, and therefore is allowable, either as-of-right or as a special permitted use. In making its determination the Zoning Board of Appeals shall use these criteria:

- (1) The use is not listed in any other classification of permitted or special uses.
- (2) The use is similar in nature and scale to the Permitted and Special Permitted uses listed in Table 5.1 for that particular zoning district and conforms to the basic characteristics of the classification to which it is to be added.
- (3) The use does not create dangers to public health and safety and does not create offensive noise, vibration, waste material, dust, heat, smoke, odor, glare or other objectionable impacts to an extent greater than those resulting from other uses listed in the classification to which it is to be added.
- (4) Such a use does not create traffic volumes to a greater extent than the other uses listed in the classification to which it is to be added.

This determination shall be considered as an interpretation of the use regulations of the zoning district and not as a variance applying to a particular situation. Any use found similar shall thereafter be included in the enumeration of uses permitted by right or as special permitted uses in Table 5.1.

**Table 5.1 Land Use Table**

TYPE OF USE	USE DISTRICT									
	R-1	R-2	R-3	C-F	B-1	B-2	I-1	1-2	P-R	
<b>RESIDENTIAL</b>										
Single-family dwellings	P	P	P	P	P					
Two-family dwellings	P	P	P	P	P					
Multiple family dwellings	SP	SP	SP	SP	SP	SP				
Boarding houses	SP	SP	SP	SP	SP					
Manufactured homes (on individual lots)			P							
Apartments over first floor commercial uses					P					
<b>GENERAL</b>										
Accessory uses on the same lot as principal uses	P	P	P	P	P	P	P	P	P	P
Cemeteries	SP									
Clubs					SP					
Day care center, child	SP	SP	SP	SP	P	P	SP	SP		
Day care center, adult	SP	SP	SP	SP	P	P	SP	SP		
Essential services	SP	SP	SP	SP	SP	SP	SP	SP		
Fairgrounds										P
Farmers' market					SP		SP			
Golf courses		SP					SP	SP		
Libraries					P					
Medical clinics					P	P				
Nursery schools	SP		SP	SP	P	P				
Nursing homes	SP	SP	SP	SP	P	P				
Parks	SP	SP	SP	SP	SP	SP	SP	SP		
Parking lots *					SP	SP	SP	SP		
Places of worship	P	P	P	P	P	P	P	P	P	P
Public uses	SP	SP	SP	SP	SP	SP	SP	SP	SP	
Public utility facilities	SP	SP	SP	SP	SP	SP	SP	SP	SP	
Schools, commercial				SP	P	P				
Schools, private				SP	P	P				
Schools, public				SP	P	P				
Telecommunications facilities									SP	
Trail heads					SP		SP			
Veterinary Clinics					SP	SP	SP	SP		

\* Refers to parking lots as a separate land use. Parking lots as part of a commercial, industrial or other type of land use shall be considered to be an accessory use to the primary use of the parcel.

<b>COMMERCIAL</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-F</b>	<b>B-1</b>	<b>B-2</b>	<b>I-1</b>	<b>1-2</b>	<b>P-R</b>
Antique mall					P				
Antique stores					P				
Automobile body shops							SP	SP	
Automobile repair shops						SP	SP	SP	
Automobile sales establishments						SP			
Adult uses								SP	
Banks					P	P			
Bakery					SP				
Bars					SP				
Bed and Breakfast establishments	SP	SP	SP	SP	SP				
Brew pubs					SP	SP			
Campgrounds		SP							
Commercial recreation establishments (indoor)					SP	SP	SP	SP	
Commercial recreation establishments (outdoor)		SP					SP	SP	
Consignment stores					P				
Drive-through windows					SP	SP			
Drug store					P				
Feed stores					P	P	P	P	
Financial institutions					P	P			
Flea market					SP				
Florists					P				
Funeral homes	SP			SP	SP	SP			
Gasoline station					SP	SP			
Gasoline station with mini-market					SP	SP			
Grocery stores					P	P			
Hardware stores					P				
Hotel/Motel/Inn		SP			P	P	SP		
Home-based business, minor	P	P	P	P	P				
Home-based business, major	SP	SP	SP	SP	SP				
Laundromats					P	P			
Lumber and building materials storage and sales							SP	SP	
Offices				SP	P	P	P	P	
Personal service establishments					P	P	SP	SP	
Pet grooming establishments					SP	SP	SP	SP	
Photographic studios					P	P	P	P	
Repair shops, general					P	P	SP	SP	
Repair shops, personal services					P	P	SP	SP	
Restaurants					P	P	SP	SP	
Restaurants, drive-through						SP			
Retail businesses, large						P	P	P	
Retail businesses, small					P	P	P	P	
Theaters					P	P			
Thrift shops					P				

<b>INDUSTRIAL</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-F</b>	<b>B-1</b>	<b>B-2</b>	<b>I-1</b>	<b>1-2</b>	<b>P-R</b>
Bottling plants							P	P	
Contractor's yard							P	P	
Distribution center							P	P	
Food processing establishment					SP	SP	P	P	
Junkyard							SP	SP	
Machine shops							P	P	
Manufacturing							SP	SP	
Micro-breweries							SP	SP	
Micro- Distilleries							SP	SP	
Research and development facilities							SP	SP	
Self-service storage facilities					SP	SP	SP	SP	
Warehouses					SP	SP	P	P	
Wholesale businesses					SP	SP	P	P	

<b>AGRICULTURAL</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-F</b>	<b>B-1</b>	<b>B-2</b>	<b>I-1</b>	<b>1-2</b>	<b>P-R</b>
Farm stands		SP							
Forestry	P	P	P						
Garden Center		SP							
Greenhouse		SP							
Keeping of Chickens	SP	SP							
Keeping of Horses	SP	SP							
Plant cultivation		SP							
Plant nursery		SP							

**Key to Abbreviations:**

P-----Permitted

SP-----Permitted by Special Use Permit

No letter---Not permitted

**Zoning Districts:**

- R-1 Village Residential District
- R-2 Rural Residential District
- R-3 General Residential District
- C-F Community Facilities District
- B-1 Village Business District
- B-2 General Business District
- I-1 General Industrial District
- I-2 Special Industrial District
- P-R Public Recreation

## **Section 5.2 Dimensional Regulations**

### **(A) Table of Dimensional Regulations**

Table 5.2, Table of Dimensional Regulations, contains the minimum lot size, minimum lot width, minimum yard requirements, maximum building height and maximum lot coverage for each land use district. This table is hereby declared to be an integral part of this law.

### **(B) Exceptions to Height Regulations**

- (1) The height limitations contained in Table 5.2, Table of Dimensional Regulations, do not apply to spires, belfries, cupolas, water tanks, ventilators, chimneys, silos, grain elevators, non-commercial radio or television antennas for private residential use, or any appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- (2) As stated in Section 11.15(F)(2), the maximum height for a Telecommunications Facility is 150 feet.
- (3) Barns used for keeping of horses or for other agricultural uses that may be permitted by this Law, shall not exceed 25 feet in height.

### **(C) Measurement of Required Yards**

The minimum front yard for a lot shall be determined by measuring at right angles from the nearest street right-of-way line. The rear and side yards shall be determined by measuring at right angles from the rear and side property lines, respectively.

### **(D) Projections into Required Yards**

The following encroachments into required front, side and rear yard setbacks are permitted:

- (1) Eaves, cornices, cantilevered roofs, or bay windows may project three feet into any required setback.
- (2) A chimney, attached to the wall of a building, may project three feet into any required setback, provided that the chimney is not wider than eight feet.

### **(E) Yards to be Open**

Where yards are required in this law, they shall be construed as permanently maintained open spaces. They shall not be less in depth, or width, or area than the minimum specified, and they shall be, at every point, open and unobstructed from the ground to the sky, except as specifically mentioned in these regulations.

**Table 5.2 Table of Dimensional Regulations**

Zoning District	Minimum Lot Size <sup>1</sup>	Minimum Frontage (feet) <sup>2</sup>	Minimum Lot Width (feet)	Minimum Yard Dimensions (feet) <sup>3</sup>			Maximum Height (feet) <sup>4</sup>	Maximum Lot Coverage (percent)
				Front	Side	Rear		
<b>R-1</b>	10,000 sq. ft.	75	75	25	10 feet each side	25 ft. principal structure 15 ft. accessory structure	35	30
<b>R-2</b>	1 Acre	125	125	35	25 ft. each side	60 ft. principal structure 25 ft. accessory structure	35	25
<b>R-3</b>	10,000 sq. ft.	70	70	25	7 ft. minimum ea. 15 ft. total	25 ft. principal structure 15 ft. accessory structure	35	35
<b>C-F</b>	20,000 sq. ft.	80	80	25	10 ft. each side	25 ft. principal structure 15 ft. accessory structure	35	30
<b>B-1</b>	10,000 sq. ft.	70	70	0 <sup>5</sup>	10 ft. each side; 0 ft. if approved by zba <sup>6</sup>	20 ft. principal and accessory structures	40	50% with on-site parking, 80% with-out on-site parking <sup>7</sup>
<b>B-2</b>	20,000 sq. ft.	80	80	25	20 ft. each side	25 ft. principal and accessory structures	40	50
<b>I-1</b>	1 Acre	125	125	40	30 ft. each side	40 ft. principal and accessory structures	40	50
<b>I-2</b>	1 Acre	125	125	40	30 ft. each side	40 feet principal and accessory structures	40	50
<b>F-O</b> <sup>8</sup>								
<b>P-R</b>	20,000 sq. ft.	80	80	25	25 feet each side	25 ft. principal and accessory structures	35	50

**Key to Districts:**

R-1	Village Residential District	B-2	General Business District
R-2	Rural Residential District	I-1	General Industrial District
R-3	General Residential District	I-2	Special Industrial District
C-F	Community Facilities District	F-O	Floodplain Overlay District
B-1	Village Business District	P-R	Public Recreation District

**Notes to Table 5.2:**

- <sup>1</sup> Cattaraugus County Health Department may require a larger lot size.
- <sup>2</sup> All sides of a lot that abut a street shall be considered frontage, but only one side must conform to the minimum frontage requirements of this law.
- <sup>3</sup> Unless otherwise noted, the minimum yard requirements apply to both principal and accessory structures.
- <sup>4</sup> Maximum height applies to principal building only; see Section 5.2 (H) for accessory buildings and structures.
- <sup>5</sup> Buildings in the historic Village Center are encouraged to be located on or near the front lot line. The Zoning Board of Appeals may require a minimum setback during site plan review.
- <sup>6</sup> The Zoning Board of Appeals may approve a side yard setback of less than 10 feet, including a zero side yard setback, to encourage development that enhances the village character, provided the site design conforms to the recommendations in Randall Arendt's guidelines for village commercial development. See Article 11.
- <sup>7</sup> Requirements for on-site parking may be waived by the Zoning Board of Appeals during site plan review, provided the site design conforms to the recommendations in Randall Arendt's guidelines for village commercial development. See Article 11.
- <sup>8</sup> Dimensional requirements in the Floodplain Overlay District shall be those of the underlying zoning district.

**(F) Corner Lots**

Whenever a side yard is adjacent to a street, both the front and side yards shall be considered to be front yards, and the standards for front yards shall apply.

**(G) Through Lots**

In the case of a lot running through from one street to another street, the frontage on which the majority of the buildings in the block face shall be considered the primary frontage for the purposes of this law. In cases where there is no clearly defined frontage, the owner, when applying for a building permit, shall specify which lot line is considered the primary frontage. The rear portion of such lot shall, however, be treated as a front for purposes of determining required setbacks and locations of permitted structures and uses.

**(H) Accessory Buildings and Structures**

- (1) No accessory building or structure may be located in a required front yard.
- (2) Where an accessory building is erected in the required rear yard on a corner lot, it shall not be located closer to any street than the required front yard distance.
- (3) No accessory building or structure may exceed 15 feet in height.
- (4) Notwithstanding any other provision of this law, clothesline poles, flag poles, garden trellises, and retaining walls shall be exempt from any setback requirements.

**(I) Visual Clearance at Driveways and Intersections**

- (1) On corner lots no fence, wall, hedge or other structure or planting interfering with visibility from motor vehicles shall be erected, placed, maintained, continued or permitted within the triangular areas formed by the intersecting street lines on such lots and a line drawn between two points thirty feet distant from the intersection, measured along said street lines.
- (2) On any lot where a private driveway enters a street, no obstruction to visibility from motor vehicles between three (3) feet above ground level and ten (10) feet above ground level shall be located within the triangular area formed by the street property line, the private drive line and a line connecting them at points ten (10) feet from their intersection.

**(J) Buffer Yard**

- (1) Where any business or industrial use abuts a residential district, the required yard shall contain a landscaped area adjacent to the residential use, a minimum of eight (8) feet in width. The buffer yard shall contain hedges or trees and shall be planted with grass or other planting material. The entire area shall be attractively maintained and kept free of

all debris and rubbish. Parking, storage of merchandise or trash, or other such uses shall not be allowed in the buffer yard.

- (2) In areas where a buffer yard is required but a natural buffer is considered to be impractical or inappropriate, an opaque fence may be substituted in whole or in part for a natural buffer, provided its specifications are approved by the Zoning Board of Appeals.
- (3) All fences and vegetative material shall conform to the visual clearance requirements in Section 5.2 (I).

**(K) Fences in Residential Districts and the Community Facilities District**

- (1) No fence may exceed eight (8) feet in height above ground level, except that a clearance of six inches shall be allowed for installation purposes and shall not count in determining the height of a fence. A fence in the front yard shall not exceed four (4) feet in height. An entrance feature, such as an arched trellis over a gate, may not exceed ten feet in height.
- (2) No fence may be constructed with barbed wire, metal spikes, or any other sharp pointed materials. All chain link fences shall be installed with the knuckle portion of the fence up and with the barb portion of the fence on or near the ground. No fence may be electrified, except that a low voltage electrified wire may be buried for the purposes of confining a household pet on its owner's property.
- (3) A fence shall be constructed of one material, such as stone, wood or wrought iron, except that the supports or posts may be a different material. If painted, all sections of a fence on a particular lot shall be stained or painted. In general, fencing should exhibit a consistent design character for the entire lot. Snow fencing shall not be allowed as a permanent fence. For purposes of this section, a permanent fence is one that is designed and installed to last for more than one winter.
- (4) Fences shall be set back a minimum of two feet from all property lines, to allow space for painting and other maintenance activities.
- (5) All fences shall be installed such that the supporting members are located on the inside of the fence.

**(L) Fences in Commercial, Industrial and Public Recreation Districts**

- (1) No fence may be erected which exceeds eight (8) feet in height above ground level, except that a clearance of six inches shall be allowed for installation purposes and shall not count in determining the height of a fence.
- (2) No fence may be constructed with barbed wire, metal spikes, or any other sharp pointed materials, except with the issuance of a special use permit in accordance with Article 9 of this Law. All chain link fences shall be installed with the knuckle portion of the fence

up and with the barb portion of the fence on or near the ground. No fence may be electrified, except that a low voltage electrified wire may be buried for the purposes of confining a household pet on its owner's property.

- (3) A fence shall be constructed of one material, such as stone, wood or wrought iron, except that the supports or posts may be a different material. If painted, all sections of a fence on a particular lot shall be stained or painted. In general, fencing should exhibit a consistent design character for the entire lot or the entire development.
- (4) Fences shall be set back a minimum of two feet from all property lines, to allow space for painting and other maintenance activities.
- (5) All fences shall be installed such that the supporting members are located on the inside of the fence.

### **(M) Exceptions to Residential Front Yard Setback Requirements**

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 yard setback for the new residence shall be calculated by taking the average of the front yards 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 Village.

### **(N) More than one Principal Use per Lot**

- (1) Other than a single family or two-family dwelling, more than one structure containing a principal permitted or special permitted use may be allowed on a single lot, provided that the yard 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, one principal building may contain more than one allowable use, such as offices and retail uses.
- (2) In all districts where single family and two-family dwellings are permitted, a lot may be developed for that use in accordance with the requirements of this ordinance, provided that there shall be no more than one single family dwelling unit or no more than one two-family residence on each lot. If two or more single family or two-family dwellings are proposed to be located on the same lot, the lot shall be subdivided and each new lot shall meet all the requirements of this law and other applicable Village regulations.

## **ARTICLE 6**

### **NON-CONFORMING LOTS, BUILDINGS AND USES**

#### **Section 6.1 Continuation of Use**

Except as otherwise provided herein, any lawfully established use of a building, structure or land, or part thereof, 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 local law.

#### **Section 6.2 Discontinuance of Use**

- (A) Whenever any building, structure or land, or part thereof, occupied by, or being used as, a non-conforming use is changed to or replaced by a use conforming to the provisions of this local law, such premises shall not thereafter be used or occupied by a non-conforming use.
- (B) Whenever a non-conforming use of a building or structure, or part thereof, has been discontinued, as evidenced by vacancy, for a period of six consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a non-conforming use, such use shall not after being discontinued or abandoned be re-established, and the further use of the building, or structure, or part thereof, shall be in conformity with the regulations of the district in which it is located.
- (C) Where no enclosed building is involved, discontinuance of a non-conforming use for a period of six months shall constitute abandonment, and shall not thereafter be used in a non-conforming manner.

#### **Section 6.3 Change of Use**

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

#### **Section 6.4 Extension**

A building or structure, which is non-conforming with respect to height, minimum setbacks, or other dimensional requirement, shall not be enlarged or altered in such manner as to increase any such non-conformity. A non-conforming use of land shall not be enlarged or extended to additional land. A building or structure, which is non-conforming with respect to use, shall not be enlarged or extended. However, a use permitted in this local law may occur in a non-conforming building or structure that existed prior to the enactment of this local law.

## **Section 6.5 Repairs and Alterations**

Normal maintenance of a non-conforming building or structure is permitted. However, such building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost twenty-five (25) percent of the market value of the building or structure, unless changed to a conforming use. (Market value shall be determined by dividing the assessed value by the equalization rate.)

## **Section 6.6 Restoration**

- (A) No building damaged by fire, flood or other causes to the extent of more than seventy-five (75) percent of its market value shall be repaired or rebuilt, except in conformity with the regulations of this local law. (Market value shall be determined by dividing the assessed value by the equalization rate.)
- (B) An application for a building permit to rebuild or restore any building that was damaged to the extent of seventy-five percent or less shall be filed within six months of the date of such damage. If the rebuilding or restoration is not an exact replica of what was destroyed, and if a non-conformity shall still exist, application shall be made to the Zoning Board of Appeals for a variance.

## **Section 6.7 District Changes**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses or structures existing therein.

## **Section 6.8 Terms Defined**

As used in this Article, the terms "vacancy," "abandonment" and "discontinuance" shall all have the same meaning. Vacancy, abandonment and discontinuance, when used in this Article, shall rebuttably be presumed to occur in any building or structure when such building or structure has shown no visible signs of human habitation by owners or tenants for the period specified above. Vacancy, abandonment and discontinuance of a use on a lot that does not contain a structure shall rebuttably be presumed to occur if the lot has shown no visible signs of use as the non-conforming use for the period specified above.

In order to rebut the presumption of vacancy, abandonment and/or discontinuance, the property owner may present one or more of the following types of documentation:

- (A) Water bill from the Village of Little Valley, which shows water usage in excess of 2,000 gallons per month for the period in question.

(B) If rental property, copies of the cancelled checks for the period in question, along with the signed lease agreement.

(C) If a commercial property, business licenses such as liquor licenses, showing dates of use.

Nothing in this section shall preclude a court of competent jurisdiction from finding that the use of a non-conforming building, structure, or lot is vacant, abandoned or discontinued under any other legally acceptable concept of vacancy, abandonment and/or discontinuance.

# ARTICLE 7

## ADMINISTRATION AND ENFORCEMENT

### Section 7.1 General Procedure

#### (A) General Sequence of Steps

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 joint Zoning and Building Permit. The Zoning Officer will then either approve or deny the Permit or refer the application to the Zoning Board of Appeals. If the application for a Permit is denied, the applicant may appeal this decision to the Zoning Board of Appeals.

**(B) Zoning Permit Types.** Under the terms of this local law, the following classes of Zoning and Building Permits may be issued:

- (1) Permitted Use.** A Zoning and Building Permit for a permitted use may be issued by the Zoning Officer and Code Enforcement Officer on their own authority.
- (2) Special Use.** A Zoning and Building Permit for a Special Use may be issued by the Zoning Officer and Code Enforcement Officer upon the order of the Zoning Board of Appeals, after the Zoning Board of Appeals has issued a Special Use Permit in accordance with the procedure in Article 9 of this local law.
- (3) Zoning Permit after an Appeal or a Request for a Variance.** A Zoning and Building Permit may be issued by the Zoning Officer and Code Enforcement Officer upon the order of the Zoning Board of Appeals, after the Zoning Board of Appeals has issued a variance in accordance with the procedure in Article 8 of this local law.
- (4) Zoning Permit after Site Plan Review.** A Zoning and Building Permit may be issued by the Zoning Officer and Code Enforcement Officer upon the order of the Zoning Board of Appeals, after the Zoning Board of Appeals has approved a Site Plan in accordance with the procedure in Article 10 of this local law.

### Section 7.2 Zoning Officer

This Local Law shall be enforced by a Zoning Officer who shall be appointed by the Village Board of Trustees. No Zoning Permit shall be approved by him/her except upon compliance with all the provisions of this Law. The Zoning Permit may be incorporated into other permits issued by the Village, such as a joint Zoning and Building Permit.

**(A) Duties.** The powers and duties of the Zoning Officer shall include the following:

- (1) Examine applications pertaining to the use of land, buildings, and structures.

- (2) Receive, file and forward for appropriate action all applications for special uses, site plans, variances, and amendments to this law.
- (3) 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.
- (4) Approve 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 Zoning and Building Permit Application shall be considered to be an approved Zoning Permit.
- (5) Conduct such inspections of buildings, structures and use of land as are necessary to determine compliance with the provisions of this Zoning Law. Investigate complaints of potential violations that are reported in writing and investigate potential violations that he/she may observe.
- (6) Upon request by the subject board, review applications and make recommendations to the Village Board of Trustees and Zoning Board of Appeals. When requested by the Chair of the respective boards, attend meetings of the Zoning Board of Appeals and the Village Board of Trustees.
- (7) The Zoning Officer shall file a copy of each decision, permit issued, determination, interpretation, order, and/or requirement that he/she makes, within five business days from the day it is rendered with the Village Clerk.
- (8) Perform any other duties that may be established by the Village Board of Trustees.

#### **(B) Zoning Permits**

- (1) **General.** No building or structure shall be erected, added to, or structurally altered until a joint Zoning and Building Permit therefor has been approved by the Zoning Officer. Except upon written order of the Zoning Board of Appeals, no such Zoning Permit shall be issued for any building where said construction, addition, or alteration of use thereof would be in violation of any of the provisions of this local law.
- (2) **Information Necessary for Application.** The applicant for a Zoning Permit shall submit a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, and the exact size and location on the lot of the buildings, structures and accessory buildings to be erected. The Zoning Officer may also require such other information as may be necessary to determine compliance with the provisions of this local law.
- (3) **Public Record.** Each application and the accompanying plot plan shall be a public record. Each decision of and permit approved by the Zoning Officer shall be a public record.

- (4) **Water Supply and Sewage Disposal.** All water supply and sewage disposal installations shall conform to the New York State Department of Health regulations and the regulations of the Cattaraugus County Department of Health. If a structure has a water supply system, the applicant shall either (1) connect to the Village's water supply system and sewage disposal system or (2) show approval, in writing, of the proposed water supply and/or sewage disposal system from the Cattaraugus County Department of Health. A joint Zoning and Building Permit shall not be issued until written approval is received from the Cattaraugus County Department of Health, if necessary.
- (5) **Stormwater Runoff.** Drainage that may affect adjacent properties shall be considered before approving a joint Zoning and Building Permit, including possible stormwater runoff to said properties. The project shall be designed so that there is minimal impact to adjacent properties from stormwater runoff.
- (6) **Issuance of Permits.** It shall be the duty of the Zoning Officer to approve a Zoning Permit, provided he is satisfied that an application complies with all requirements of this local law, and that all other reviews and actions, if any are called for in this law, have been complied with and all necessary approvals secured therefor.

All joint Zoning and Building Permits shall be issued in duplicate. One copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. No owner, contractor, worker or other person shall perform any building operations of any kind unless a Zoning and Building Permit covering such operation has been displayed as required by this law, nor shall they perform building operations of any kind after notification of the revocation of said Zoning and Building Permit.

- (7) **Denial of Permits.** When the Zoning Officer is not satisfied that the applicant's proposed development will meet the requirements of this local law, he/she shall refuse to approve a Zoning Permit. The applicant may appeal to the Zoning Board of Appeals for a reversal of the Zoning Officer's decision.
- (8) **Expiration of Zoning Permit.** The applicable requirements of the NYS Building Code shall govern the expiration date of any joint Zoning and Building Permit. If no building permit is issued, the Zoning Permit shall expire one year from the date of issue.
- (9) **Revocation of 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 is being done upon the premises differing materially from that called for in the application filed with him under existing laws or ordinances, 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 Village 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.

## **Section 7.3 Violations and Penalties**

### **(A) Enforcement Official**

The Building Code Enforcement Officer is hereby designated as the Village official who is charged with the administration and enforcement of this Zoning Law. The Building Code Enforcement 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 Village Board of Trustees may designate other officials as a deputy enforcement official to help in the enforcement of the provisions of this law.

### **(B) Complaints of Violations**

- (1) Any person may file a complaint with the Building Code Enforcement 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 Building Code Enforcement Officer shall record and investigate any such written complaint.
- (3) The Building Code Enforcement 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 Building Code Enforcement 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, the Building Code Enforcement Officer shall obtain approval from an owner, lessee, agent, tenant, or other person with authority to make an inspection of the property.
- (2) Following the inspection of the property, the Building Code Enforcement Officer shall file a written report, which details the findings of his/her inspection, with the Village Clerk.

**(D) Notice of Violation**

- (1) If the Building Code Enforcement 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 timeperiod 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 mailed to the last known address of the property owner or occupant.
- (3) **Extension.** Upon application of the owner or occupant showing reasonable cause, the Building Code Enforcement Officer may grant an extension of up to thirty days for the owner or occupant to comply with the Notice of Violation.

**(E) Appearance Ticket**

If, after the expiration of the timeperiod 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 Building Code Enforcement Officer or Village Board of Trustees may institute enforcement procedures as follows:

- (1) The Building Code Enforcement Officer is hereby authorized, pursuant to Criminal Procedure Law Section 150.20 (3), to issue an appearance ticket to any person whom he/she 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 Building Code Enforcement Officer shall file an Information and Supporting Deposition with the local justice.

**(F) Penalties**

- (1) Every person convicted of violating this local law shall, for a first conviction thereof, be punished by a fine of not more than two hundred fifty dollars (\$250.00) or by imprisonment for not more than twenty (20) days or by both. For a second conviction within eighteen months, such person shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than sixty (60) days or by both fine and imprisonment. Upon the third or subsequent conviction(s) within eighteen

months after the first conviction, such person shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment of not more than ninety (90) days or by both such fine and imprisonment.

- (2) Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omission, neglect or refusal shall continue.

### **(G) 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 Village Board of Trustees, 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 Village Board of Trustees reserves the right to seek a court order to have the violation corrected by the Village. 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 Village Board of Trustees. The Village Board of Trustees may direct an appropriate village employee or other entity 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 due 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.

- (H) The provisions of this Article shall not limit the available procedures for enforcement and remedies provided for under the Village Law of the State of New York or any other applicable law.

### **Section 7.4 Fees**

A schedule of fees for all permits and applications required by this local law shall be established by the Village Board of Trustees. The Village Board may revise the fee schedule from time to time.

**Section 7.5 Court Review**

Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals or any officer, department, board or bureau of the Village, pursuant to this Law, may apply to the supreme court for review by a proceeding under Article Seventy-eight of the civil practice law and rules. Such proceeding shall be instituted within thirty days after the filing of the decision of the board in the office of the Village Clerk.

## **ARTICLE 8**

### **ZONING BOARD OF APPEALS**

#### **Section 8.1 Organization**

##### **(A) Appointment**

- (1) Pursuant to the provisions of Village Law of the State of New York, the mayor of the Village of Little Valley, subject to the approval of the Board of Trustees, shall appoint a Zoning Board of Appeals consisting of five members. The Zoning Board of Appeals existing as of the date of the adoption of this local law shall continue and shall be deemed appointed in accordance with the provisions of law and in accordance with the terms heretofore made.
- (2) The terms of office shall be five years. The terms of office shall expire at the end of the village's official year. No member of the Zoning Board of Appeals shall simultaneously hold other elective office in the village government.
- (3) The Mayor shall designate the chairperson of the Zoning Board of Appeals, subject to the approval of the Board of Trustees. 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**

The Village Board of Trustees may establish requirements for members of the Zoning Board of Appeals to complete training and/or continuing education classes on zoning and planning issues. In addition, the Village Board of Trustees may establish minimum requirements for attendance at Zoning Board of Appeals meetings.

##### **(D) Removal from Office**

The Mayor 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 Village Board of Trustees by local law.

**(E) Expenses**

The Village 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, not to exceed the appropriations made by the Village Board of Trustees.

**Section 8.2 Powers and Duties****(A) Powers**

With due consideration for the purpose and intent of this Zoning 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 Law.
- (2) Hear and decide all matters referred to it, or upon which it is required to pass under this Law.
- (3) Decide any question involving the interpretation of any provision of this Law, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- (4) Hold public hearings and approve or disapprove each application for a use or area variance, as defined in this Law.
- (5) Hold public hearings and approve or disapprove each application for a special use permit, as defined in this Law.
- (6) Hold public hearings and approve or disapprove each application for site plan review, as defined in this Law.
- (7) Revoke any decision to grant a variance, special use permit, or site plan review after a public hearing, if the owner/applicant fails to comply with any conditions of approval of the original approval. 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 7 of this local law.

**(B) Duties of the Chairperson**

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. The chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

**(C) Minutes and Records**

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.

**(D) Consultant Review**

- (1) The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board.
- (2) For unique or large-scale projects, the Zoning Board of Appeals, upon approval from the Village Board of Trustees, 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 8.3 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 Village of Little Valley, provided such variance complies with the general standards set forth 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; and
  - (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; and
  - (c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - (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.
- (3) Nothing in this section shall be construed to prohibit the Zoning Board of Appeals from requiring, as a condition of approval, that a grant of a use variance be renewed periodically. Any renewal shall follow the same procedure specified in this Article for the original issuance of the use variance.

**(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**

- (1) 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.

- (2) The Zoning Board of Appeals shall have the authority to revoke the grant of a variance, 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 7 of this local law.

## **Section 8.4 Procedures**

### **(A) Filing of Appeals**

- (1) Any party aggrieved by a decision of the Zoning Officer shall file a notice of appeal within sixty (60) days from the date of the filing of any order, requirement, decision, interpretation or determination by the Zoning Officer in the office of the Village Clerk.
- (2) All appeals 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 the local 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.
- (3) All appeals shall be filed with the Village Clerk. Upon receipt of the notice of appeal, together with all required application material, the Clerk shall transmit the notice of appeal and application materials to the Zoning Board of Appeals. The Zoning Officer shall transmit to the Zoning Board of Appeals copies of all the papers constituting the record upon which the action appealed from was taken.

### **(B) Request for Interpretation**

Any Village board, agency, or official or any person may request an interpretation of any portion of this zoning law. Such request shall be made in writing and shall detail the specific section of the zoning law for which clarification or interpretation is requested. The Zoning Board of Appeals shall consider the request for clarification at its next meeting, or at the earliest meeting which allows full compliance with all the notification and other public hearing requirements of this law. The determination of the Board of Appeals shall be filed according to the requirements of this law.

### **(C) Required Application Materials**

Any appeal or application for a use or area variance shall contain the information specified below for the corresponding type of application. The Zoning Board of Appeals may require additional information, if a particular application so warrants. The Zoning Board of Appeals may waive any particular application requirement that it deems is not relevant to an individual application.

The applicant shall submit a sufficient number of copies of all required materials to facilitate review by the Zoning Board of Appeals and staff, in addition to one required public review set of materials. The Zoning Officer shall determine the required number of copies.

**(1) Appeal from interpretation or determination**

Any appeal of the Zoning Officer's interpretation of the Zoning Law or other determination shall include the following information:

- (a) The name and address of the applicant.
- (b) The tax map number and the street address of the lot that is the subject of the application, if applicable. The name and address of the owner of the lot in question, if the applicant is not the property owner.
- (c) A description of the interpretation or determination that is being appealed, and a statement explaining why the applicant feels this interpretation or determination is not correct.
- (d) All required fees.

**(2) Application for a Use Variance**

- (a) The name and address of the applicant.
- (b) The name and address of the owner of the lot that is the subject of the application, if the applicant is not the property owner. If an applicant is applying for a variance on a lot that he/she does not own, the property owner shall also sign the application or present, in writing, permission for the appeal to be filed.
- (c) The tax map number and the street address of the lot that is the subject of the application.
- (d) The zoning classification of the lot and its present use. A description of the proposed use, if different from the current use.
- (e) If construction is proposed, a reasonably accurate description of the present buildings and any other improvements, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof.
- (f) A statement explaining the reasons why the applicant believes the variance should be granted. The applicant should address the four tests itemized in Section 8.3(A) of this Law.

(g) All required fees.

**(3) Application for an Area Variance**

- (a) The name and address of the applicant.
- (b) The name and address of the owner of the lot that is the subject of the application, if the applicant is not the property owner. If an applicant is applying for a variance on a lot that he/she does not own, the property owner shall also sign the application or present, in writing, permission for the appeal to be filed.
- (c) The tax map number and the street address of the lot that is the subject of the application.
- (d) The zoning classification of the lot and its present use. A description of the proposed use, if different from the current use.
- (e) A plot plan of the lot, indicating the location and size of the lot and size of the improvements thereon and proposed to be erected thereon. The plot plan shall be drawn to scale, and the dimensions of the lot, buildings and setbacks shall be accurately shown on the plot plan. The plot plan shall generally indicate the types of construction materials to be used.
- (f) A statement explaining the reasons why the applicant believes the variance should be granted. The applicant should address the five tests itemized in Section 8.3(B) of this Law.
- (g) All required fees.

**(D) Public Hearing**

- (1) Before acting on any matter, 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 notice of appeal and application are filed with the Clerk. The Zoning Board of Appeals shall determine when the application is complete.
- (2) Notice of the public hearing for a **variance** shall be published in the following ways:
  - (a) The Village shall publish a notice in a newspaper of general circulation in the Village at least five days prior to the date of the public hearing.
  - (b) By mailing a notice of the public hearing to the owners of every parcel that is within one hundred (100) feet of all property lines of the lot(s) that is the subject of the appeal. The Chairperson of the Zoning Board of Appeals may specify that notice be mailed to other interested persons. Such notices shall be mailed at least ten (10) days prior to the public hearing.

- (c) For all appeals that meet the requirements contained in Article 13 of this Law (and in Section 239-m 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 ten (10) days prior to the public hearing and shall be accompanied by a full statement of the proposed action.
- (3) Notice of the public hearing for an **interpretation of the zoning law**, or appeal of any determination of the Zoning Officer (other than a use or area variance), shall be published in the following ways:
  - (a) The Village shall publish a notice in a newspaper of general circulation in the Village at least five days prior to the date of the public hearing.
  - (b) The Chairperson of the Zoning Board of Appeals may direct that a notice be mailed individually to interested persons. In such case, the notice shall be mailed at least 10 days prior to the date of the public hearing.
- (4) At the public hearing any person may appear in person, or by agent or by attorney. If a person is represented by an agent or attorney, that representative shall show, in writing signed by the person, that they have the authority to represent the person on whose behalf they are speaking.

#### **(E) Stay upon Appeal**

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 shall have 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 a court of record on application, on notice to the Zoning Officer and on due cause shown.

#### **(F) Adjournment of Hearing**

During the hearing for any application or appeal, the Zoning Board of Appeals may adjourn the hearing for a reasonable period. One of the reasons for such adjournment may be for the purpose of causing such further notice as the Board deems proper to be served upon such other persons as it decides may be interested in said application or appeal.

#### **(G) 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) All deliberations and decisions of the Zoning Board of Appeals shall occur in a open public meeting, to the extent required by the New York State Open Meetings Law.
- (3) The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days of the close 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.
- (4) The Zoning Officer may recommend to the Zoning Board of Appeals a modification or reversal of his action in cases where he believes substantial justice requires the same but where he himself did not have sufficient authority to grant the relief sought.

#### **(H) Filing Of Decisions and Notice To The Applicant**

- (1) The Zoning Board of Appeals shall file every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination in the office of the Village Clerk within five (5) business days. Such decisions and determinations shall be a public record.
- (2) A copy of the decision of the Zoning Board of Appeals shall be mailed to the applicant within ten (10) business days of the decision. If the application is denied, the notice to the applicant shall state the reasons therefore. If the application is approved with conditions or modifications, the notice to the applicant shall specify all such conditions and modifications.
- (3) The Zoning Board of Appeals shall file a copy of all its decisions and determinations, with all conditions and modifications, in the offices of the Building Code Enforcement Officer and Zoning Officer within five (5) business days of the decision/determination.

#### **(I) Expiration of Grant of Variance**

- (1) A variance shall expire one year from the date of approval, if the applicant has not commenced construction on the project within that time or if use of the property in accordance with the grant of variance has not been commenced, in cases where construction is not part of the project. The Zoning Board of Appeals may grant an extension of the time period to begin construction or start the use of the property, 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 situations outside of the applicant's control.
  - (a) In order to grant such an extension, the Zoning Board of Appeals must receive a written request from the applicant, prior to the expiration date of the variance. The request shall include the reason(s) for the delay.
  - (b) The extension of a variance is deemed to be a *de minimus* action that does not require a public hearing. However, the Zoning Board of Appeals may choose to hold a public hearing prior to determining whether or not to grant an extension.

- (2) A use variance shall expire if the use of the property in accordance with the grant of variance shall cease continuously for six months.

**(J) Rehearing**

Whenever the Board of Appeals, after hearing all the evidence presented upon an application or appeal, under the provisions of this local law, denies the same, the Board shall refuse to hold further hearings on the said or substantially similar application or appeal by the same applicant, his successor, or assign for a period of one (1) year, except and unless the Zoning Board of Appeals shall find and determine from the information supplied by the applicant for a rehearing that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity and general welfare, and that a reconsideration is justified.

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. A quorum of the membership of the Board of Appeals must be present when such vote is taken. Such rehearing is subject to the same notice provisions as the 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 in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

**(K) 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 date of the initial notice of appeal or from the date that additional material or information is requested by the Zoning Board of Appeals, whichever is later. "No activity" means that the applicant is not diligently providing the Village 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 8.5 Compliance with State Environmental Quality Review Act**

The Zoning Board of Appeals shall fully comply with the provisions of the State Environmental Quality Review Act (SEQRA) prior to acting upon an application for variance, an appeal, or other action.

## **ARTICLE 9 SPECIAL USE PERMITS**

### **Section 9.1 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 9.2 Authorization to Grant Special Use Permits**

- (A) The Zoning Board of Appeals shall hear and determine all applications for Special Use Permits for uses that are so listed in Article 5 and elsewhere in this zoning law. After evaluating the application using the criteria established in this Article and considering the intent and purpose of this local zoning law and the Village's Comprehensive Land Use Plan, the Zoning Board of Appeals may approve, approve with conditions or disapprove the application for Special Use Permit.
- (B) If the application is approved, the Zoning Board of Appeals may impose any reasonable conditions related to the project that it feels are necessary to mitigate potential impacts to the neighborhood, to the Village as a whole, or to the environment. These conditions may include, but are not limited to, the following:
  - (1) Limiting the hours of operation
  - (2) Requiring fencing, screening, and landscaping to protect adjacent or nearby property
  - (3) Limiting the number, size and location of signs
  - (4) Controlling the number and location of driveway entrances

### **Section 9.3 Application Materials**

- (A) The application for special use permit shall contain the information and materials listed below. All maps shall include the name of the project, title of drawing, the name and address of the applicant, the person responsible for the preparation of the drawing, a north arrow, scale, and date. The applicant shall submit a sufficient number of copies of all required materials to facilitate review by the Zoning Board of Appeals members and staff, in addition to one required public review set of materials. The Zoning Officer shall determine the number of copies necessary.
- (B) The application shall contain the following:
  - (1) An application for a Zoning and Building Permit.

- (2) A general description of the proposed project, including the nature of the use and the proposed hours of operation.
- (3) The tax map number of the parcel(s) on which the project will occur, and the name of the owner of record of that parcel(s). If the applicant is not the owner of record, the property owner shall also sign the application or provide, in writing, approval for the application to be made.
- (4) A plot plan, showing the size and location of the lot, the location of all buildings on the lot, driveway entrances, parking areas, landscaping and any other proposed features.
- (5) A description of the proposed water supply, sewerage disposal and stormwater drainage facilities.
- (6) Environmental Assessment Form pursuant to the NYS Environmental Conservation Law, Part 617.
- (7) All required fees.
- (8) Any other information that the Zoning Board of Appeals determines is necessary to consider the application.

The Zoning Board of Appeals may, at its discretion, waive any application requirement that it deems is not relevant to a particular application.

## **Section 9.4 Application Procedure**

### **(A) Submission to Zoning Board of Appeals**

An applicant for a Special Use Permit shall submit a completed application to the Village Clerk, who shall forward it to the Zoning Board of Appeals.

### **(B) Coordination of Review**

#### **(1) Variances**

If a variance is also required under the provisions of this law for an application, a separate application for said variance shall be made to the Zoning Board of Appeals. The Board of Appeals shall act on the application for a variance prior to final action on the application for the Special Use permit.

Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features that 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 a decision or determination of the Zoning Official.

#### **(2) 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.

**(C) Public Hearing**

- (1) The Zoning Board of Appeals shall hold a public hearing on the application for special use permit within sixty-two (62) days from the date the complete application is received. The Zoning Board of Appeals shall determine when the application is complete.
- (2) Notice of the public hearing shall be published in the following ways:
  - (a) The Village shall publish a notice in a newspaper of general circulation in the Village at least five days prior to the date of the public hearing.
  - (b) By mailing a notice of the hearing to the owners of every parcel that is within one hundred (100) feet of all property lines of the lot(s) that is the subject of the application. Notice shall also be mailed to such other interested persons as the chairperson of the Zoning Board of Appeals may direct.
  - (c) For all applications that meet the requirements contained in Article 13 of this Law (and in Section 239-m 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 ten (10) days prior to the public hearing and shall be accompanied by a full statement of the proposed action.

**(D) Decision**

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

**(E) Filing of Decision**

- (1) The Zoning Board of Appeals shall file a copy of its decision on the application with the Village Clerk within five (5) business days of the date of the decision.
- (2) The Zoning Board of Appeals shall mail a notice of its decision to the applicant within ten (10) business days of the date of the decision. If the application is denied, the notice to the applicant shall state the reasons therefore. If the application is approved with conditions or modifications, the notice to the applicant shall specify all such conditions and modifications.

- (3) The Zoning Board of Appeals shall file a copy of its decision, with all conditions and modifications, in the offices of the Building Code Enforcement Officer and Zoning Officer within five (5) business days of the decision.

#### **(F) Consultant Review**

- (1) In reviewing any application for a special use permit, the Zoning Board of Appeals may consult with the Zoning Officer, Building Code Enforcement Officer, Fire Chief, Department of Public Works, Cattaraugus County Planning Department, Soil Conservation Service, NYS Department of Transportation (DOT), NYS Department of Environmental Conservation (DEC), and other local, county or state agencies.
- (2) For unique or large-scale projects, the Zoning Board of Appeals, upon the approval of the Village Board of Trustees, may retain qualified expert consultants to assist the Zoning Board of Appeals in its review of the application; the cost of such consultant(s) shall be paid by the applicant.

### **Section 9.5 Compliance with Conditions of Approval**

- (A) In approving a special use permit, the Zoning Board of Appeals may impose reasonable conditions, which are directly related to the application. Such conditions shall be consistent with the intent and purposes of this zoning law and other applicable laws, the Village's Comprehensive Land Use Plan, and other recognized Village planning policies.
- (B) The conditions to the Special Use Permit shall be included in the motion to approve the application.
- (C) The Building Code Enforcement Officer shall be responsible for the overall inspection of site improvements and for insuring that all conditions of approval are incorporated into the project as constructed. No Certificate of Occupancy shall be issued until all conditions of approval are met or a sufficient performance bond has been posted to guarantee completion of improvements not yet made.

### **Section 9.6 Criteria for Granting Special Use Permits**

When making a decision to approve, approve with conditions, or disapprove a special use permit, the Zoning Board of Appeals shall consider the following criteria. In approving a special use permit, the Zoning Board of Appeals shall find that the project meets these criteria, or can be modified or conditioned to bring it into compliance with the criteria. In this latter case, the conditions of approval shall be part of the approved special use permit.

The Zoning Board of Appeals shall find that:

- (A) The proposed project is in harmony with the general purposes and intent of this zoning law and other applicable laws, the Village's Comprehensive Land Use Plan, and any other applicable, recognized Village planning policies.

- (B) The nature, intensity, size and location of the proposed use is in harmony with the character of the surrounding neighborhood and the proposed use will not adversely affect the neighborhood.
- (C) The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of such proposed use and will not be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Village.
- (D) The size and location of the site are adequate for the use proposed.
- (E) The proposed use will not generate excessive noise, odor, dust, smoke or vibrations.
- (F) The proposed use will not unduly increase traffic volumes or unduly affect traffic flow or safety for pedestrians or vehicles. The capacity of the existing street system is adequate to handle the anticipated traffic from the proposed project.
- (G) Essential infrastructure and community services, such as police and fire protection, water supply and sewerage disposal systems, exist to adequately serve the proposed use or will be provided on-site by the applicant.
- (H) The proposed project is adequately screened from adjacent properties, if screening is appropriate.
- (I) The proposed project will not result in the destruction, loss or damage of a natural, scenic or historic feature of major significance.
- (J) The proposed project conforms to all applicable requirements of this zoning law.

### **Section 9.7 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 Zoning Board of Appeals, whichever is later. "No activity" means that the applicant is not diligently providing the Village 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 9.8 Expiration of Special Use Permit**

- (A) A Special Use Permit shall expire one year from the date of approval, if the applicant has not commenced construction on the project within that time, or if use of the property in accordance with the grant of Special Use Permit has not commenced, in cases where construction is not part of the project. The Zoning Board of Appeals may grant an extension

of the time period to begin construction or start the use of the property, 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 situations outside of the applicant's control.

- (1) In order to grant such an extension, the Zoning Board of Appeals must receive a written request from the applicant, prior to the expiration date of the Special Use Permit. The request shall include the reason(s) for the delay.
  - (2) The extension of a Special Use Permit is deemed to be a *de minimus* action that does not require a public hearing. However, the Zoning Board of Appeals may choose to hold a public hearing prior to determining whether or not to grant an extension.
- (B) 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 six months.

### **Section 9.9 Temporary Special Use Permits**

- (A) In making a determination on an application for Special Use Permits, The Zoning Board of Appeals 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. The time period for which the temporary Special Use Permit is valid shall be specified in the approval.
- (B) Temporary Special Use Permits may be renewed by the Zoning Board of Appeals. Any renewal shall follow the same procedure specified in this Article for the original issuance of a Special Use Permit.

### **Section 9.10 Revocation of Approval of Special Use Permit**

The Zoning Board of Appeals 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 7 of this local law.

### **Section 9.11 State Environmental Quality Review Act**

Prior to final action on an application for a Special Use Permit, the Zoning Board of Appeals shall comply with all applicable provisions of the State Environmental Quality Review Act (SEQRA).

# **ARTICLE 10**

## **SITE PLAN REVIEW**

### **Section 10.1 Purpose**

The purpose of this Article is to establish 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 Village to accommodate development consistent with the objectives of this local law.

### **Section 10.2 Function**

Site Plan Review is a regulatory planning technique which requires municipal approval of the arrangement, layout and design of the proposed use, when development occurs on a single parcel of land that is not intended to be subdivided.

This review process allows the Village of Little Valley to analyze new development proposals in terms of their impacts on local growth and the need for facilities and services. It also allows the Village to ensure the optimum overall conservation, protection, preservation, development, design and use of natural and man-related resources in the Village, and provides an effective way to insure that when new development, or redevelopment, occurs, it will be consistent with the Village's planning and development goals and will be in harmony with the character of the area in which it is located. It is a means to identify those new developments or redevelopment that may present problems or opportunities to the village and address them before development occurs.

### **Section 10.3 Authorization**

- (A) Site Plan Review Required.** The provisions of Section 7-725-a of New York State Village Law and this local law shall control the review of applications for Site Plans. The Zoning Board of Appeals is hereby authorized to review and approve, approve with conditions, or disapprove site plans. When reviewing a site plan application, the Zoning Board of Appeals shall consider the plan elements and findings contained in Section 10.7, Criteria for Review of Site Plans. When approving a site plan, the Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed site plan.
- (B) Permits Not to be Issued.** A joint Zoning and Building Permit shall not be issued until all the requirements of this Article, when applicable, and all other applicable provisions of this local law have been met, and the Site Plan has been approved by the Zoning Board of Appeals, and any applicable conditions of that approval have been met.

## **Section 10.4 Applicability**

**(A)** All new development; redevelopment; land use activities; applications for special use permits; and any change in use, regardless of whether or not construction activities are involved, shall require site plan review and approval before being undertaken, except those activities specifically exempted below.

### **(B) Exempted Uses**

The following land use activities are exempted from the requirement for site plan review and approval:

- (1) Construction of one- or two-family dwelling units and ordinary accessory structures, and related land use activities, including additions or alterations to such dwelling units to be used for residential purposes.
- (2) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this Law.
- (3) Ordinary repair or maintenance or alterations to existing structures, in cases where the use remains the same.
- (4) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%, in cases where the use remains the same.
- (5) Gardening, not involving commercial use.
- (6) Plant cultivation, as defined in Article 2, and the sale of agricultural produce and temporary structures related to sale of agricultural produce.
- (7) Interior structural alterations within any existing building, in cases where the use remains the same.
- (8) Signs, except for signs that are included in projects that would otherwise require site plan review.
- (9) Home based businesses.
- (10) Accessory structures, including fences, unless the fence or other accessory structure is part of a project that is subject to site plan review.
- (11) Permitted Uses in the Public Recreation District.

- (C) Any person uncertain of the applicability of Site Plan Review to a given land use activity may apply in writing to the Zoning Board of Appeals through the Zoning Officer for a written jurisdictional determination.

### **Section 10.5 Application Content**

- (A) The application for site plan review shall contain the information and materials listed below. If a pre-application conference is held, the necessary application materials will be determined by the Zoning Board of Appeals at that conference. All maps shall include the name of the project, title of the drawing, the name and address of the applicant, the person responsible for the preparation of the drawing, a north arrow, scale, and date. The applicant shall submit a sufficient number of copies of all the required materials to facilitate review by the Zoning Board of Appeals members and staff, in addition to one required public review set of materials. The Zoning Officer shall determine the number of copies necessary.
- (B) The site plan application shall include the following:
- (1) An application for a Zoning and Building Permit.
  - (2) The name, address, and contact information of the applicant. The tax map number of the parcel(s) on which the project will occur, and the name of the owner of record of that parcel(s). If the applicant is not the owner of record, the property owner shall also sign the application or provide a letter of permission for the application.
  - (3) An area map showing:
    - (a) The applicant's entire holdings, including lot size, and existing zoning
    - (b) All adjacent properties, with tax map numbers
    - (c) Adjacent streets, roadways and sidewalks
  - (4) A legal description of the property, including a survey prepared by a licensed land surveyor.
  - (5) A site plan that shows:
    - (a) The location, dimensions, and use of all existing and proposed buildings
    - (b) Means of access and egress
    - (c) All parking facilities, loading areas, and stacking areas
    - (d) Physical features intended to protect adjacent land uses, including screening, fencing, landscaping and buffer areas. The dimensions of all setbacks and buffer areas shall be specified.
    - (e) Existing natural features, such as wetlands, water bodies, watercourses, floodplain areas, and wooded areas.
    - (f) Internal streets, driveways, loading and stacking areas
    - (g) Sidewalks and crosswalks
    - (h) Location and proposed development of all open spaces.

- (6) A map showing the lines of existing and proposed streets, crosswalks and sidewalks, immediately adjoining and within the proposed site, showing pedestrian and vehicular access, and the names of all proposed streets.
- (7) Floor plans and elevations showing all architectural features, including materials to be used, colors, type of construction, and exterior dimensions, including height.
- (8) Location of outdoor storage, if any.
- (9) Grading and drainage plan showing existing and finished contours and grades. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- (10) Water supply plan, including location of fire lanes and hydrants.
- (11) Location of sewer tie-in. If the Village's sewer system will not be used, a description of the method of sewage disposal and the location, design and construction materials of such facilities.
- (12) Location, design and construction materials of energy distribution facilities, including electricity and gas, oil, solar and wind energy.
- (13) Location and design of outdoor lighting facilities.
- (14) Location, size and design and type of construction of all proposed signs.
- (15) If the proposed project is in a regulatory floodplain, the applicant shall comply with the provisions of Local Law 1-1987, Flood Damage Prevention.
- (16) Landscaping plan and planting schedule, including location, type and size of existing trees and vegetation, identifying those to be preserved, and the location, type and size of trees, vegetation and other amenities to be provided.
- (17) An estimated project construction schedule.
- (18) Identification of any County, State or Federal permits required for the project, and documentation of application for and approval status of all necessary permits from the County, State, or Federal officials.
- (19) Description of proposed operations, including the nature and intensity of the operation and the number of shifts and employment per shift.
- (20) Description of the means by which surrounding properties will be protected from any objectionable effects, such as traffic, noise, glare, dust, vibration, fire hazards, air pollution, water pollution, and soil erosion.

- (21) Environmental Assessment Form pursuant to NYS Environmental Conservation Law, Part 617.
  - (22) All required fees.
  - (23) Additional data on other elements integral to the proposed development may be requested of a property owner or his or her agent by the Zoning Board of Appeals as it deems necessary and pertinent to carry out its responsibility for Site Plan review as provided in this Local Law.
- (C) The Zoning Board of Appeals may, at its discretion, waive any application requirement that it deems is not relevant to a particular application.

## **Section 10.6 Application Procedure**

### **(A) Submission to Zoning Board of Appeals**

An applicant for Site Plan Review shall submit an application to the Village Clerk, who shall forward it to the Zoning Board of Appeals.

### **(B) Coordination of Review**

#### (1) Variances

- (a) Where a variance would normally be required under the provisions of this law, the Zoning Board of Appeals shall not have the authority to vary those provisions under site plan review. Application must be made for a variance and the Zoning Board of Appeals shall act on the variance application prior to final action on the application for site plan approval.
- (b) Notwithstanding any provision of law to the contrary, where a proposed Site Plan contains one or more features that 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 a decision or determination of the Zoning Official.

#### (2) Special Use Permits

Where a special use permit is also required by this zoning law, review of both the special use permit and site plan review shall proceed concurrently.

#### (3) Integration of Procedures

Whenever an application for site plan review also requires the grant of a variance or special use permit, the Zoning Board of Appeals shall attempt to integrate, as appropriate, the submission requirements and review procedures for such other permits.

**(C) Pre-application Conference**

A pre-application conference may be held between the Zoning Board of Appeals and the applicant prior to the preparation and submission of a formal site plan. The purpose of the pre-application conference is to enable the applicant to inform the Board of the proposal prior to the preparation of a detailed site plan application. The Zoning Board of Appeals shall review the basic site design concept and advise the applicant as to potential problems and concerns, and generally determine the information to be required for the site plan application.

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

- (1) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, 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, easements, and other pertinent features.
- (3) A topographic or contour map of adequate scale and detail to show site topography, if applicable to the site plan.

**(D) Public Hearing**

- (1) The Zoning Board of Appeals shall hold a public hearing on the application for site plan review within sixty-two (62) days from the date the complete application is received. The Zoning Board of Appeals shall determine when the application is complete.
- (2) Notice of the public hearing shall be published in the following ways:
  - (a) The Village shall publish a notice in a newspaper of general circulation in the Village at least five days before the date of the public hearing.
  - (b) By mailing a notice of the hearing to the applicant at least ten (10) days before the hearing.
  - (c) By mailing a notice of the hearing to the owners of every parcel that is within one hundred (100) feet of all property lines of the lot(s) that is the subject of the application at least ten (10) days before the hearing. Notice may also be mailed to such other interested persons as the chairperson of the Zoning Board of Appeals may direct.

- (d) For all applications that meet the requirements contained in Article 13 of this Law (and in Section 239-m 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 ten (10) days prior to the public hearing and shall be accompanied by a full statement of the proposed action.

### **(E) Decision**

- (1) The Zoning Board of Appeals shall decide on the application within sixty-two (62) days after the close of the public hearing. The time by which the Zoning Board of Appeals must reach its decision may be extended by mutual consent of the applicant and the Board.
- (2) The concurring vote of a majority of the total membership of the Zoning Board of Appeals is needed to approve an application.

### **(F) Filing of Decision**

- (1) The Zoning Board of Appeals shall file a copy of its decision in the office of the Village Clerk within five business days after the date of the decision.
- (2) The Zoning Board of Appeals shall mail a notice of its decision to the applicant within ten (10) business days of the date of the decision. If the application is denied, the notice to the applicant shall state the reasons therefore. If the application is approved with conditions or modifications, the notice to the applicant shall specify all such conditions and modifications.
- (3) The Zoning Board of Appeals shall file a copy of the decision, with all conditions and modifications, in the offices of the Building Code Enforcement Officer and Zoning Officer within five (5) business days of the decision.

## **Section 10.7 Criteria for Review of Site Plans**

When making a decision to approve, approve with conditions, or disapprove a Site Plan, the Zoning Board of Appeals shall consider the following criteria. In approving a Site Plan, the Zoning Board of Appeals shall find that the project meets these criteria, or can be modified or conditioned to bring it into compliance with the criteria. In this latter case, conditions of approval or modifications to the proposal shall be part of the approved, modified Site Plan.

The Zoning Board of Appeals shall find that:

- (A) The proposed project is consistent with the intent and purposes of this zoning law and other applicable laws and the Village's Comprehensive Land Use Plan and other recognized Village planning policies.

- (B) The proposed project is compatible with the natural features of the site and with the existing character of the neighborhood.
- (C) Adequate services and utilities will be available prior to occupancy.
- (D) The proposed Site Plan is consistent with the following standards:
  - (1) The scale of the proposed development is compatible with the existing character of the neighborhood.
  - (2) Location, size, massing, arrangement, and design of the proposed buildings and other structures are compatible with the existing development in the surrounding area and with established community guidelines, including the compatibility of the proposed architectural features, colors and materials.
  - (3) Location, design, massing, 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.
  - (4) The location, size, nature and intensity of the operations involved, and the size of the site in relation to the proposed use are compatible with the orderly development of the Zoning District in which the site is located.
  - (5) Adequacy of off-street parking arrangements, both in terms of number of spaces and their arrangement on the lot. In general, parking areas are encouraged to be placed behind or to the side of the primary buildings, with the buildings closer to the street.
  - (6) Adequacy and arrangement of pedestrian access and circulation, control of intersections with vehicular traffic, and overall pedestrian convenience.
  - (7) Adequacy of the vehicular access to and egress from the site, and adequacy and arrangement of the internal vehicular circulation on the site.
  - (8) Location, arrangement, appearance and sufficiency of off-street loading facilities. Loading docks and doors shall not be permitted at the front of a building, and shall be screened from view.
  - (9) Adequacy, type, and arrangement of trees, shrubs, walls, fencing and other landscaping features that constitute a visual and/or noise buffer between the site and adjacent land uses. The retention of existing major vegetation is encouraged.
  - (10) Adequacy of landscaping plan. In general, species that tolerate low maintenance are preferred.
  - (11) Size, design, number, placement and arrangement of signs.

- (12) Adequacy, location and design of lighting. Lighting shall be designed so that it does not spill over to adjacent properties. The minimum level of lighting for safety and visibility shall be approved. Pedestrian-scale lighting is encouraged. The use of dark sky compliant lighting is encouraged.
- (13) Adequacy of storm water and drainage facilities.
- (14) Adequacy of the water supply and sewage disposal systems.
- (15) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- (E) If the proposed project is located in a regulatory floodplain, the proposal conforms to all requirements of Local Law 1-1987, Flood Damage Prevention.
- (F) The proposed project will not be hazardous to the neighborhood and will not be a detriment to the community by causing a significant increase in noise, traffic, odor, glare, unsightliness or nuisances.
- (G) Solar access on adjacent or neighboring properties that contain solar facilities is protected.
- (H) If the project is an apartment complex or other multiple-family dwelling, the adequacy of usable open space for play areas and informal recreation, and access or proximity to retail goods and services.
- (I) Specific Standards for Shoreline Protection.
  - (1) All construction on any shoreline lot shall be carried out in such a manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the shoreline.
  - (2) Any marina, boat service facility or any storage of petroleum products within two hundred (200) feet or reasonable setback as determined necessary by the Zoning Board of Appeals, of the shoreline shall include adequate provisions for insuring that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dike shall be constructed in such a manner so as to afford adequate protection.
  - (3) Any paved or otherwise improved parking, loading or service area within two hundred (200) feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen silt into the waterway.

### **Section 10.8 Consultant Review**

- (A) In reviewing any Site Plan, the Zoning Board of Appeals may consult with the Zoning Official, Building Code Enforcement Officer, Fire Chief, Department of Public Works, Cattaraugus County Planning Department, Soil Conservation Service, State Department of Transportation, State Department of Environmental Conservation, and other local or county officials.
- (B) For unique or large-scale projects, the Zoning Board of Appeals, upon the approval of the Village Board of Trustees, may retain qualified expert consultants to assist the Zoning Board of Appeals in its review of the application; the cost of such consultant(s) shall be paid by the applicant.

### **Section 10.9 Compliance with Conditions of Approval**

- (A) In approving a Site Plan, the Zoning Board of Appeals may impose reasonable conditions or modifications to the application, which may limit the use and occupancy of the land or the proposed buildings. Such conditions and modifications shall be consistent with the intent and purposes of this zoning law and other applicable laws, the Village's Comprehensive Land Use Plan, and other recognized Village planning policies. The approval shall be conditional upon the satisfactory compliance with these conditions or modifications by the property owner and his or her agents.
- (B) The conditions and/or modifications to the Site Plan shall be included in the motion to approve the Site Plan. Modifications in the Site Plan may also be indicated in writing on the Site Plan documents.
- (C) The Building Code Enforcement Officer shall be responsible for the overall inspection of site improvements and for insuring that all conditions of approval are incorporated into the project as constructed. No Certificate of Occupancy shall be issued until all improvements shown on the Site Plan are installed or a sufficient performance bond has been posted to guarantee completion of improvements not yet made.

### **Section 10.10 Amendment to an Approved Site Plan**

- (A) Any change to an approved Site Plan shall require approval by the Zoning Board of Appeals. An application shall be made to the Zoning Board of Appeals for an amendment to the approved site plan. The application shall include a revised site plan and a written statement describing the proposed changes and the reasons for those changes.
- (B) Upon receipt of an application for an amendment to an approved Site Plan, the Planning Board shall determine if the amendment is a minor or major amendment. The following and similar insignificant changes shall be considered to be a minor amendment:

- (1) minor changes to the Landscaping Plan, such as a change in the types of plantings, provided the amount of buffering or landscaping is essentially the same as the approved plan; and/or
- (2) reconfiguration of the parking lot, where the number of parking spaces does not fall below the minimum requirement; and/or
- (3) change in location of garbage dumpsters, light poles, or similar site features, where the overall level of service will not change; and/or
- (4) change in location of access driveway, provided that such driveway meets all the criteria in this Law; and/or
- (5) minor realignments of water lines, sanitary sewer lines, and storm drainage facilities that may be necessary during construction, as approved by the appropriate Village official.

New buildings, the expansion of existing building, expansion of parking facilities and other substantial changes to the site plan shall be considered a major site plan amendment.

- (C) If the Zoning Board of Appeals determines that the requested change is a minor amendment, the Board may approve the amendment administratively, without a public hearing or referral to the Cattaraugus County Planning Board.
- (D) If the Zoning Board of Appeals determines that the requested change is major, the Board shall follow the review and approval process contained in this Article, as if it were a new application.

### **Section 10.11 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 Zoning Board of Appeals, whichever is later. "No activity" means that the applicant is not diligently providing the Village 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 10.12 Expiration of Site Plan Approval**

Approval of the site plan shall expire one year from the date of approval, if the applicant has not commenced construction on the project within that time or if use of the property in accordance with the Site Plan approval has not commenced, in cases where construction is not needed. The Zoning Board of Appeals may grant an extension of the time period to begin construction or start the use of the property, 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 situations outside of the applicant's control.

- (1) In order to grant such an extension, the Zoning Board of Appeals must receive a written request from the applicant, prior to the expiration date of the Site Plan approval. The request shall include the reason(s) for the delay.
- (2) The extension of a Site Plan approval is deemed to be a *de minimus* action that does not require a public hearing. However, the Zoning Board of Appeals may choose to hold a public hearing prior to determining whether or not to grant an extension.

### **Section 10.13 Revocation of Site Plan Approval**

The Zoning Board of Appeals shall have the authority to revoke the site plan approval, 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 7 of this local law.

### **Section 10.14 State Environmental Quality Review Act**

Prior to taking final action on an application for Site Plan review, the Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act (SEQRA).

# ARTICLE 11

## SUPPLEMENTARY REGULATIONS

### Section 11.1 Application

In addition to all other requirements set forth in this local law, the following supplementary regulations shall apply, except as herein specified, in all zoning districts created by this local law and all amendments hereto.

### Section 11.2 Performance Requirements

No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition. Failure to conform to the performance standards in this section will be considered to be a Violation of this Law.

- (A) **Air Pollution.** No pollution of air by flyash, vapors or other substance shall be permitted which is harmful to health, animals, vegetation or other property, or which can cause excessive soiling.
- (B) **Water Pollution.** No pollution of water by chemicals or other substances shall be permitted which is unhealthful to animal or plant life as determined by the Cattaraugus County Health Department.
- (C) **Fire Hazards.** Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and suppression equipment and by such other safety devices as are normally used in the handling of such materials.
- (D) **Radioactivity or Electrical Disturbance.** No activity shall emit dangerous radioactivity or electrical disturbance at any point where it may adversely affect other land uses in the village.
- (E) **Smoke.** Smoke that exceeds a density or opacity of Number 1 on the standard Ringlemann Chart as issued by the U.S. Bureau of Mines shall not be emitted for longer than three minutes, except when building a new fire, blowing tubes or breakdown; under these circumstances an emission that does not exceed a density or opacity of Ringlemann Number 3 is permissible for a period not to exceed three minutes in any thirty minute period.
- (F) **Erosion.** No erosion by either wind or water shall be permitted which will carry objectionable substances onto neighboring properties. Constructed conservation measures shall require the approval of the Cattaraugus County Soil and Water Conservation District or other appropriate agency.

- (G) **Glare.** No direct or reflected glare from any industrial establishment shall be visible from any property outside an industrial district or from any public thoroughfare.
- (H) **Vibration.** No vibration shall be permitted which is discernible without instruments on any adjoining property.

### **Section 11.3 Manufactured Homes on Individual Lots**

Where permitted in Article 5 of this local law, a manufactured home may be placed on a single-family lot, provided that it shall conform to all of the following requirements:

- (A) The manufactured home shall be the principal use on a residential lot. The manufactured home shall conform to all setbacks and other dimensional requirements of the zoning district in which it is located.
- (B) The manufactured home shall contain a minimum floor area of 800 square feet, excluding any garage or carport, and shall have a minimum width of twenty (20) feet.
- (C) The manufactured home shall permanently connect to the Village's water supply and sewage disposal systems.
- (D) The manufactured home shall be installed on a permanent foundation that meets the manufacturer's installation requirements and all state and local codes.
- (E) All towing apparatus, wheels and exposed chassis shall be removed prior to the issuance of an occupancy permit.
- (F) Solid masonry skirting, which screens the space between the manufactured home's floor and the ground, shall be installed prior to the issuance of an occupancy permit. If the home is installed on a block foundation, or similar permanent wall foundation, this requirement shall be waived.
- (G) The manufactured home shall have a roof which is pitched so that there is at least a four-inch vertical rise for each 12 inches of horizontal run. The roof shall consist of shingles or other material customarily used for conventional dwelling roofing.
- (H) Prior to the installation of a manufactured home on a lot, a joint zoning and building permit shall be obtained. Prior to issuance of the Permit, a used manufactured home shall be inspected by the Building Code Enforcement Officer to insure that it has not been altered in violation of the HUD Code. If such violations are found, they shall be corrected to the satisfaction of the Building Code Enforcement Officer prior to the issuance of the Zoning and Building Permit.
- (I) All manufactured homes must display a valid HUD Code sticker.
- (J) No more than one (1) manufactured home may be located on a lot.

### **Section 11.4 Recreational Vehicles and Trailers**

- (A) Recreation vehicles and trailers may be located and used in any residential district in the Village for a period of up to 30 days, subject to obtaining a permit from the Building Code Enforcement Officer (BCEO). Said permit may be renewed by the BCEO for a total period of no more than 90 days in any one calendar year.
- (B) Individual recreation vehicles or trailers owned by residents of the Village may be stored on the property of the owner for an unlimited period, provided that such recreation vehicle or trailer is not used. Such storage must be off-street. The vehicle may not be stored in the required front yard setback or in front of a dwelling, unless the vehicle is stored in a wholly enclosed structure that meets the setback requirements of the zoning law.

### **Section 11.5 Home-based Businesses**

Where permitted in Article 5 of this Zoning Law, a home-based business shall conform to all the requirements of this section and to 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 approved by the Zoning Board of Appeals in accordance with the procedures contained in Article 9 of this Law.

#### **(A) General Standards**

- (1) The home-based business is clearly incidental 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 local law.
- (2) The home-based business does not occupy more than 25% of the gross residential floor area of the dwelling unit, or the equivalent of 25% of the gross residential floor area in an accessory building or buildings.
- (3) There is no outdoor storage or display of material or equipment.
- (4) 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.
- (5) Customer/client visits to the home-based business are limited to the hours from 7 a.m. to 10 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) Deliveries shall be permitted between 8 a.m. and 6 p.m.

- (8) A home-based business shall be limited to the parking/storage of one commercial vehicle on the premises, not exceeding one-ton capacity.
- (9) A home-based business may display one sign, either on the wall of the dwelling or a freestanding sign. The sign may not exceed sixteen square feet in area. Freestanding signs shall not be more than four (4) feet high, measured from the ground to the top of the sign.
- (10) If permitted by a special use permit granted by the zoning board of appeals, the sign for a home-based business may be illuminated by low intensity spot illumination, but may not be internally illuminated. All sign lighting is limited to hours of operation only.

**(B) Minor Home-based Businesses**

- (1) In addition to the General Standards, above, a Minor Home-based Business shall conform to the following requirements:
  - (a) There are no 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 per day.
- (2) Permitted minor home-based businesses include, but are not necessarily 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 one student 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 and similar arts/crafts).
  - (g) Workrooms for tailors, dressmakers, milliners and upholsterers.
  - (h) Direct sale product distribution, such as Avon, Tupperware, etc.
  - (i) Typing, word processing services, data processing, computer programmers, web designers.

**(C) Major Home-based Businesses**

- (1) No Major Home-based Business shall be put into operation without first obtaining a Special Use Permit in accordance with the provisions of Article 9 of this Law. In addition to the General Standards, above, a Major Home-based Business shall conform to the following requirements:
  - (a) There is no more than one on-premise employee, in addition to the residents of the dwelling unit in which the home-based business is located. In addition to the on-premises employee, the home-based business may have any number of off-premises employees, who work from another location.
  - (b) To the maximum extent feasible, parking for customers of the home-based business shall be accommodated on-site, in an existing driveway, for example. However, paving of the front yard to accommodate parking shall not be allowed.
  - (c) The Zoning Board of Appeals may establish, as a condition of approval, a maximum limit for the number of customer/client visits in any one day.
- (2) Major home-based businesses may include, but are not necessarily limited to, the following:
  - (a) Any activity permitted as a minor home-based business, but which exceeds the threshold for a minor home-based business.
  - (b) Beauty parlors and barber shops
  - (c) Small appliance repair, repair of non-motorized bicycles, repair of watches and clocks.
  - (d) Retail sales

**(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) Mortuary establishments
- (2) Automobile body repair work, including painting of automobiles; repair of automobile or other vehicular engines.
- (3) Medical and dental offices
- (4) Manufacturing
- (5) Restaurants and bars
- (6) Kennels and veterinary clinics
- (7) Adult uses

## Section 11.6 Adult Use Regulations

### (A) Purpose

As shown in the *Adult Use Study* for the Village and Town of Little Valley, adult uses, due to their very nature, have serious objectionable secondary characteristics and effects, particularly when located in close proximity to residential neighborhoods, schools and other sensitive land uses. The secondary effects of these uses are further heightened by their concentration in any one area. It has been acknowledged by communities across the nation that state and local governments have a special concern in regulating the location 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 youth in the community.

The purpose of the regulations contained in this section is to preserve the integrity and character of residential neighborhoods of the Village of Little Valley, to protect the integrity and character of the historic downtown, to prevent erosion of the tax base, to protect important natural and cultural resources, to deter the spread of blight, and to protect minors from the objectionable secondary characteristics of adult uses.

### (B) Standards

Where permitted in Article 5 of this zoning law by special use permit, an adult use shall conform to the following standards, which shall be considered to be the minimum standards:

- (1) All adult uses shall be operated in a manner that is consistent with the New York State Penal Law relating to exposure, obscenity or lewdness.
- (2) No adult use shall be established or operated within five hundred (500) feet of:
  - (a) a public or private elementary or secondary school, nursery school or state licensed day care facility, or use of a similar nature
  - (b) a church, synagogue or other place of worship
  - (c) a public park, municipal building, community center, civic facility, or cultural facility
  - (d) an historic resource
- (3) No adult use shall be established or operated within two hundred twenty five (225) feet of:
  - (a) any recreational trail
  - (b) a scenic resource
- (4) No adult use shall be established or operated within 100 feet of the boundary of any residential Zoning District or the Community Facilities District.
- (5) No more than one adult use shall be located in the same building or upon the same lot or parcel of land.

- (6) No adult use shall be located within five hundred (500) feet of another adult use.
- (7) No adult use shall be located in any building that is used in whole or in part for residential purposes. No residential use shall be established in any building that contains an approved adult use.
- (8) All building openings, entries, windows, and doors associated with an adult use shall be located, covered, or screened in such a manner as to prevent a view into the interior of the building from any public right-of-way or adjacent property. Such screening shall be done in an aesthetically appropriate manner.
- (9) 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, roadway or sidewalk adjacent to the establishment.
- (10) All adult uses shall be conducted in an enclosed building. Sound within the building shall not be audible to a person passing by outside the building.
- (11) Adequate landscaping, screening, and/or fencing shall be provided to minimize the visual impact on adjacent sites.
- (12) Additional Sign Requirements:

In addition to the sign requirements of Section 11.7, the following provisions shall apply to all signs erected or maintained in connection with an adult use:

- (a) No off-premises signs shall be permitted.
- (b) No free-standing signs shall be permitted.
- (c) Advertisements, displays or promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways or from other public or semi-public areas, and such displays shall be considered to be signs.
- (d) No more than one wall sign shall be permitted for an adult use. Such sign shall not exceed twenty-four (24) square feet in area.
- (e) No exterior sign associated with an adult use shall contain any photographic or artistic representation of the human body.
- (f) Signs shall not be illuminated at times during which the business is closed. Light from illuminated signs shall not be permitted to shine onto residential properties or streets, roads or other travelled ways.

### (13) Measurement of Distances

Distance limitations shall be measured in a straight line, without regard to intervening structures, from the nearest point on the outside wall of the building that contains the adult use to the nearest point of a district boundary line or a lot line for a parcel containing a use specified above.

## **Section 11.7 Signs**

### **(A) Purpose**

The purpose of these sign regulations is to encourage the effective use of signs as a means of communication in the Village of Little Valley, to maintain and enhance the aesthetic environment, to maintain and enhance the Village's ability to attract sources of economic development and growth, to improve pedestrian and traffic safety, and to minimize the possible adverse effect 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 without first having obtained a Sign Permit issued by the Zoning Officer. In issuing the Sign Permit, the Zoning Officer shall follow the procedures for reviewing and issuing zoning permits, which are contained in Article 7 of this local law.

### **(C) Exempt Signs**

The following signs shall be allowed in all districts without first obtaining a sign permit, provided they meet the general requirements, standards, and regulations of this local law.

- (1) Any sign posted by duly constituted public authorities in the performance of their public duties.
- (2) Public road and highway signs.
- (3) Real estate signs, not exceeding eight square feet in area and advertising the sale, rental or lease of the premises on which the sign is located. Only one such sign shall be permitted for each street frontage and it shall not be illuminated.
- (4) A home-based business may install one sign as permitted in Section 11.5.
- (5) A Bed and Breakfast residence may install one sign as permitted in Section 11.17.
- (6) For a residence, one sign indicating the name and address of the occupant of the premises, not to exceed six square feet in area. Such sign shall not project above a

roofline. It may be mounted on the building wall or pole mounted. An address sign shall not be permitted if the premises contains a sign for a home-based business.

- (7) Bulletin boards and signs for a church, school, community building or other public building shall be permitted, provided that the area of such sign does not exceed 32 square feet.
- (8) Temporary signs in a commercial district that advertise any special sale. The sign shall not be erected more than ten days prior to the sale and must be removed within five (5) days after the sale. Such sign shall not exceed six (6) square feet in area and shall not obstruct traffic or interfere with the line of sight of persons and vehicles using public streets.
- (9) Political Signs: Signs advertising a candidate for political office, or signs advertising any other ballot issue, may be posted 30 days prior to the election and shall be removed within five (5) days after the election. Such sign shall not exceed six (6) square feet in area and shall not obstruct traffic or interfere with the line of sight of persons and vehicles using public streets.
- (10) For new construction or renovation, one sign, not exceeding 50 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.
- (11) New business enterprises, which are awaiting erection of permanent signs, may install temporary signs, not exceeding 32 square feet in area, for a period not to exceed 30 days.
- (12) Historical markers, tablets, memorial signs, and plaques authorized by or erected by a governmental agency.
- (13) Window signs that meet the requirements of Section 11.7(H)(6).
- (14) Entry Feature Signs: One permanent identification sign may be allowed at the entrance to a permitted subdivision, a residential complex, or an institutional use, provided that the sign does not exceed thirty-two (32) square feet in area and four (4) feet in height. Such sign shall indicate only the name and address of the facility.
- (15) For apartment buildings, one sign, not to exceed thirty-two (32) square feet in area, maybe used to indicate the name of the development. In addition, temporary signs advertising the availability of apartments may be posted.
- (16) 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 generally conform to the

requirements of the district in which the facility is located. Signs in residential districts or the community facilities district may not exceed six (6) square feet in area; signs in commercial or industrial districts may not exceed twenty-four (24) square feet in area.

#### **(D) Community Event Signs**

Upon approval by the Village Board, temporary signs not exceeding 50 square feet, which announce an event of community interest, excluding political election signs, may be erected no more than thirty (30) days before the event and must be removed within 48 hours of the completion of the event.

#### **(E) Prohibited Signs**

- (1) All signs not expressly permitted under this local law, or expressly exempt from regulation herein, are prohibited. Such signs include, but are not limited to:
  - (a) Off-premises signs
  - (b) Roof signs
  - (c) Inflatable signs or tethered balloons
  - (d) Streamers, ribbons, spinners or similar devices, except flags and bunting to commemorate national patriotic holidays, which must be removed within 30 days after the holiday.
  - (e) Snipe signs
  - (f) Vehicle signs
- (2) No sign shall contain flashing, intermittent, rotating or moving lights, except to show time and temperature.
- (3) No sign may rotate or have motorized moving parts.
- (4) No sign shall impair or cause confusion of vehicular or pedestrian traffic in its design, color or placement. No sign shall impair visibility for the motorist at a street corner or intersection.
- (5) No sign shall be a hazard or a threat to the health, safety or welfare of the residents of the Village of Little Valley or to any visitors to the Village.

#### **(F) General Standards**

- (1) A sign, except signs erected by a governmental entity for a public purpose, shall not be attached directly or indirectly to any light standard, traffic control structure, utility pole, or tree.
- (2) All approved site plans shall include a coordinated plan for the location and size of all signs for the entire project area.

- (3) No sign shall be placed in or project into the public street.
- (4) Signs shall not be mounted on roofs or extend above the roofline, unless mounted on a parapet wall that extends above the roofline, in which case the sign may not extend above the top of said parapet.
- (5) 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.
- (6) All signs shall be located on the inside of the sidewalk (the side farthest away from the edge of the street) or a minimum of six (6) feet from the edge of the pavement, in cases where there is no sidewalk.

### **(G) Illumination Standards**

- (1) No exterior sign shall be illuminated between the hours of 11 p.m. and 6 a.m., unless the premises on which it is located is open for business.
- (2) No sign shall contain strobe lights.
- (3) No sign shall be designed or illuminated in such a way that it affects traffic safety or is a nuisance to residential properties.

### **(H) Standards for Specific Types of Signs**

- (1) Awning sign
  - (a) No sign shall project from an awning.
  - (b) Graphics (lettering and images) may be painted or permanently affixed to the surface of the front or sides of the awning.
  - (c) A minimum of eight (8) feet from the bottom of the sign to ground level shall be allowed for pedestrian clearance.
- (2) Freestanding Signs
  - (a) Freestanding signs may have only two faces.
  - (b) The area of a freestanding sign shall not exceed forty (40) square feet on each side.
  - (c) No part of a freestanding sign shall project into or over any driveway, public right-of-way or over any property line.
  - (d) Freestanding signs shall be located a minimum of ten (10) feet from any property line. In the event that a business use abuts a residential district, the freestanding sign shall be located a minimum of forty (40) feet from the residential property.
  - (e) Only one freestanding sign per parcel shall be permitted. If more than one commercial establishment is located on a lot, they shall share the advertising area on one freestanding sign.

(f) **Pole signs:**

- i. Freestanding signs affixed to a pole may not exceed twenty (20) feet in height. The height of the sign shall be measured from the finished grade at the location of the sign or at the main entrance to the building, whichever is lower, to the top of the sign face or pole, whichever is higher.
- ii. There shall be a minimum clearance of eight (8) feet from the ground to the bottom of a pole-mounted sign.

(g) **Post signs** shall not exceed eight (8) feet in height and shall have a minimum clearance of two (2) feet from the ground level to the bottom of the sign.

(h) **Ground signs** shall not exceed four (4) feet in height, and shall be placed so as not to impair visibility for motorists. There is no minimum clearance between the ground and the bottom of this type of sign.

(3) Portable Signs

- (a) A sign permit is required for all portable signs. The sign permit shall be valid for one year and may be renewed annually. However, a portable sign may be used by a new business establishment while awaiting installation of a permanent business sign, without the necessity of applying for a sign permit. In no case shall such temporary portable sign be in use for more than thirty (30) days.
- (b) A portable sign shall be placed such that entrance to and egress from any building is not hindered. The sign shall be placed such that it is in front of the establishment that it advertises, and does not interfere with adjacent buildings.
- (c) The sign shall be placed such that it does not obstruct traffic or sight distance at an intersection.
- (d) An approved location for the portable sign shall be established at the time the sign permit is issued.
- (e) The sign area on a portable sign is limited to 32 square feet per side.
- (f) The sign shall be made of durable materials, and shall be placed such that it is in a fixed location throughout the entire time it is displayed.
- (g) If illuminated, the sign shall conform to all requirements of NEC or NFPA 70-d.
- (h) No more than one portable sign per lot shall be permitted.
- (i) A portable sign shall be used only to advertise activities and events on the property on which the sign is located.

(4) Wall Signs

- (a) Wall signs shall not obscure architectural features of the building, such as arches, sills, moldings, cornices and transoms.
- (b) A wall sign shall not extend above the lowest point of the roof, or beyond the ends of the wall to which it is attached.
- (c) A wall sign shall have a maximum area not exceeding 1.5 square feet for each lineal foot of building face parallel to a street lot line. In no case shall a wall sign

exceed 100 square feet in area. Where a building fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately.

- (d) Where two or more business establishments share one building, each business may erect one sign, based on the frontage width occupied by that business.
- (e) A wall sign shall not project more than twelve (12) inches from the face of the wall to which it is attached.

#### (5) Window Signs

- (a) Window signs shall not obscure more than thirty (30%) percent of the window area in which they are displayed.
- (b) The use of clear materials, such as plexiglass, for the background support of permanent window signs is encouraged.
- (c) Neon signs may be installed as window signs.

### (I) Specific Requirements for Zoning Districts

#### (1) Signs in B-1, Village Business District

- (a) In the Village Business District (B-1), an establishment may erect one wall sign or one awning sign. If the establishment fronts on more than one street, the establishment may have one sign on each frontage. Where two or more business establishments share one building, the total allowable sign area shall be divided among the businesses, which may erect one sign each.
- (b) A business may also erect window signs that conform to the provisions above.
- (c) Because of the historic and pedestrian character of this district, freestanding signs shall only be allowed with a special use permit that has been issued by the zoning board of appeals, pursuant to Article 9 of this local law. The Board of Appeals shall consider the appropriateness of the sign for the location in which it is proposed.

#### (2) Signs in B-2, General Business District

- (a) In the General Business District (B-2), an establishment may erect one wall sign or one awning sign. If the establishment fronts on more than one street, the establishment may have one sign on each frontage. Where two or more commercial establishments share one building, the total allowable sign area shall be divided among the businesses, which may erect one sign each.
- (b) In addition to the wall sign, or awning sign, the establishment may also erect one freestanding sign. Only one freestanding sign per parcel shall be permitted. If more than one commercial establishment is located on a lot, they shall share the advertising area on one freestanding sign.

- (c) A business may also erect window signs that conform to the provisions of this local law.

### (3) Signs in Industrial Districts

- (a) In any Industrial District, an industrial or commercial establishment shall be permitted to erect one wall sign or one awning sign. If the industrial or business establishment fronts on more than one street, the establishment may have one sign on each frontage. Where two or more industrial or commercial establishments share one building, the total allowable sign area shall be divided among the businesses, which may erect one sign each.
- (b) In addition to the wall sign, or awning sign, the establishment may also erect one freestanding sign. Only one freestanding sign per parcel shall be permitted. If more than one commercial establishment is located on a lot, they shall share the advertising area on one freestanding sign.
- (c) A business may also erect window signs that conform to the provisions of this local law.

### (4) Business and Industrial Establishments in Residential Districts and in the Community Facilities District

- (a) In a residential district or the Community Facilities District, a permitted or approved commercial or industrial use may erect one wall sign or one awning sign.
- (b) A freestanding sign may be allowed by special use permit, granted by the Zoning Board of Appeals pursuant to the procedures in Article 9 of this local law.

## **(J) Maintenance**

A sign shall be maintained in a secure and safe condition. If the Building Code Enforcement Officer determines that a sign is not secure, safe or in good repair, written notice of this deficiency shall be given to the person who obtained the sign permit. If the defect is not corrected within the time period specified in the notice, the Building Code Enforcement Officer may revoke the sign permit.

## **(K) Replacement**

Any sign that replaces a sign that is in existence at the time of adoption of this local law shall conform to all provisions herein.

**(L) 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.

**Section 11.8 Off-street Parking, Loading Areas, and Drive-through Windows****(A) General Requirements**

In all districts 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, off-street parking spaces for vehicles shall be provided in accordance with the following requirements.

All parking facilities shall meet the following requirements:

- (1) A parking space shall be a minimum of 10 feet by 20 feet, exclusive of parking aisles and driveways, shall be a visibly designated and marked space, and shall be of usable shape and surface.
- (2) Adequate access shall be provided to all parking spaces. Where a lot does not abut onto a private or public street or access drive, a driveway of not less than 18 feet in width leading to the parking area shall be required.

**(B) Calculation of Required Parking Spaces**

In the case of 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 joint use of parking areas or other modifications.

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

**(C) Off-Street 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	1.5 spaces per one-bedroom unit
	2 spaces per two-bedroom unit
	2.5 spaces per three-bedroom unit or greater
Hotel/Motel/Boarding House	1 space per guest room, plus 1 space for every three employees
Bed and Breakfast Residence	1 space for every room let, plus 2 spaces for the single-family dwelling
Churches, Places of Worship, Theaters, Places of Assembly	1 space for every four seats or 1 space for each 4 persons allowed under the maximum occupancy load, if there are no fixed seats
Restaurants, Bars, Clubs	1 space for every four seats or 1 space for each 4 persons allowed under the maximum occupancy load, if there are no fixed seats
Golf course	4 for each hole
Bowling alley	4 spaces for each lane
Swimming pool	1 for each 100 square feet of pool area
Nursery School/Day Care Center	1 space per employee, plus 2 additional spaces
Retail Uses, Repair Shops, Personal Service Establishments	1 space per 300 square feet of gross floor area
Offices	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
Convalescent Center or Nursing Home	1 space for every three beds plus one for each two employees on the maximum working shift
Mortuary or 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
Other Uses not specified	As may be determined by the Zoning Board of Appeals

**(D) General Requirements for Off-Street Parking**

- (1) All areas devoted to off-street parking shall be so designed that no automobile is required to back into a street to obtain egress. This provision does not apply to the parking areas serving single-family and two-family dwellings.
- (2) All parking lots and all driveways serving commercial, industrial and multi-family residential uses shall be paved. Approved paving materials are tar/chip, asphalt, or concrete. Lots and driveways shall not be dirt or gravel.
- (3) Any lighting that illuminates off-street parking lots, parking areas and driveways shall be located and arranged so that all direct rays of light fall upon the parking area only and not onto any adjoining properties.
- (4) If a parking lot abuts a residential district, adequate shielding shall be provided to ensure that the adjacent residential uses 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.
- (5) For parking lots providing spaces for more than five automobiles, a landscaped buffer shall be provided between any adjacent sidewalk or public right-of-way and the parking lot.
- (6) 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. In the B-1 Village Business District, off-street parking areas and/or parking lots shall not be allowed in front of buildings.

**(E) Driveway Regulations for Parking Lots**

- (1) Driveways used for ingress and egress to parking lots shall be clearly visible. Driveways that cross sidewalks shall be constructed at a 90 degree angle to the street in order to protect pedestrian safety.
- (2) Under no circumstances shall the entire frontage of a lot be used as a driveway. Areas outside the driveway and paved parking areas shall be landscaped.
- (3) Driveways shall not be located closer than 30 feet to an intersection of two public rights-of-way.
- (4) The minimum width of a non-residential driveway that provides both ingress and egress shall be 20 feet. The maximum width of such driveway shall not exceed 35 feet.
- (5) No more than two driveways for each lot entering on one street from a single commercial or industrial establishment shall be permitted.

- (6) Shared driveways for abutting commercial and/ or industrial 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.

**(F) Off-Street Loading and Unloading Spaces**

- (1) 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. 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.
- (2) 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. Loading spaces or docks shall be screened from view.
- (3) Buildings that existed in the B-1 Village Business District as of the effective date of this local law, shall be exempt from providing an off-street loading dock or space. The Zoning Board of Appeals may waive the requirement for a loading dock or space for new construction or expansion projects in the B-1 District, provided that the Board can make a finding that such waiver supports the historic character of the District and that the waiver will not pose a hardship to other nearby properties.

**(G) Drive-through Windows**

Where permitted in Article 5, a drive-through window may be permitted by the Zoning Board of Appeals as a special permitted use according to the procedures outlined in Article 9 of this law. If, in the opinion of the Zoning Board of Appeals, there is insufficient space on the lot to provide safe operation of a drive-through window, or the location would pose a traffic and safety hazard, the Zoning Board of Appeals may deny the application.

Stacking space for a minimum of three vehicles shall be provided in the case of a bank. Stacking space for a minimum of six vehicles shall be provided for a fast-food restaurant. Such 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.

**(H) Waiver of parking requirements**

The Zoning Board of Appeals may waive or reduce the parking requirements of Section 11.8(C) of this zoning law, provided that the Zoning Board of Appeals finds that one or more of the following circumstances exists:

- (1) The applicant can show that adequate on-street parking exists to serve the establishment.

- (2) 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 Zoning Board of Appeals, the existing parking area is adequate to serve both facilities. Joint use of parking areas for facilities that have different hours of operation is encouraged.
- (3) The applicant has entered into a legal agreement for shared use of an adjacent parking lot and the Zoning Board of Appeals makes the determination that the parking area is adequate to serve both facilities.

## **Section 11.9 Sanitation**

- (A) Dumping of garbage, trash or rubbish is prohibited.
- (B) Any new or modified facilities for the treatment, storage or disposal of sewage, including excreta, bath, sink and laundry wastes or trade wastes, shall be provided and installed in accordance with the rules, regulations and standards of New York State and the Cattaraugus County Department of Health. Careful consideration shall be given to the location and construction of private water supplies to assure adequate protection of such supplies.
- (C) Any temporary fill, or other graded or disturbed area of a lot, shall be graded or placed in its final location within 30 days of being deposited on a lot. The regraded area shall be seeded and/or otherwise stabilized within 30 days to prevent erosion onto abutting properties and/or into waterbodies. If a property is subject to a Stormwater Pollution Prevention Plan filed with the New York State Department of Environmental Conservation, the provisions of that permit shall supercede this provision.

## **Section 11.10 Seasonal Residences**

Any seasonal residence in the Village of Little Valley shall be provided with adequate water supply and sewage disposal facilities. If a residence does not connect to the Village's municipal water supply and/or sewage disposal systems, an applicant for a building permit must present approval, in writing, from the Cattaraugus County Health Department, for the water supply and sewage disposal systems.

## **Section 11.11 Temporary Buildings**

### **(A) Non-residential Buildings**

Temporary buildings or trailers, other than buildings or trailers for living purposes, to be used in connection with construction work as a tool house or field office or similar use, may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed within thirty (30) days of the completion of such work. Permits for temporary, non-residential buildings shall be issued by the Zoning Officer for a

period of up to one year. Such permit may be renewed by the Zoning Officer for an additional period of up to one year.

**(B) Residential Buildings**

- (1) Temporary buildings or trailers, for residential purposes, may be permitted in any district in which residential uses are allowed, during the period that construction of a permanent residence is in progress, subject to obtaining a permit from the Zoning Board of Appeals.
- (2) All temporary residential buildings or trailers shall be connected to the Village's water and sewage systems or shall have sewage disposal and water supply systems that have been approved, in writing, by the Cattaraugus County Department of Health. The Health Department approval shall be submitted prior to the issuance of a permit for a temporary building or trailer.
- (3) Prior to the issuance of a permit for a temporary residential building or trailer, the applicant shall demonstrate to the Zoning Board of Appeals that he/she has been issued a valid building permit for the construction of the permanent residence.
- (4) Such temporary building(s) shall be removed within thirty (30) days of the completion of such work or of the expiration of the permit, whichever occurs first. All permits for temporary residential buildings shall be issued for a period of up to one year, and may be renewed by the Zoning Board of Appeals for an additional period of up to one year.

**Section 11.12 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 three yard sales shall be conducted on any one lot in any one calendar year. Each yard sales shall not be conducted for longer than 3 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 eleemosynary (charitable), educational or service organizations shall not be construed to be yard sales.

## **Section 11.13 Site Design Standards**

### **(A) Purpose**

The purpose of this section of the zoning law is to encourage and provide for enhanced property development within the Village of Little Valley. It is also the purpose of this section to promote development that has consistency of architectural character and site design and positive visual aesthetics, and to protect residential neighborhoods from the traffic, congestion and other potential impacts that may result from adjacent commercial development through the use of landscaping, buffering, and screening.

### **(B) Applicability**

These site design guidelines shall apply to all developments in the Village of Little Valley that require site plan review. Single family and two family dwellings are exempt from the provisions of this section.

### **(C) Site Design Guidelines**

#### **(1) General Criteria**

- (a) The proposed development shall have an overall clarity and coherence of design.
- (b) 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. In the B-1 Village Business District, off-street parking areas and/or parking lots shall not be allowed in front of buildings.
- (c) In the B-1 Village Business District, buildings shall be located close to the sidewalk, in order to maintain and strengthen the historic building line and the pedestrian-oriented character of this District. The dimensional regulations of this district (See Article 5) allow this building orientation. Buildings should have their main entrance on the street, not a parking lot.
- (d) Outside of the B-1 District, new developments are encouraged to maintain the predominant setback in the area in which they are located, to promote coherence of design. If there is no predominant setback, buildings are encouraged to be located close to the front yard setback, to promote a pedestrian scale of development.

#### **(2) Building Massing and Architectural Features**

- (a) New buildings shall relate to the surrounding environment with regard to texture, scale, massing, proportion, and color. A strong visual relationship between the building, the site, and adjacent development is vital for overall design compatibility. The use of different textures, complementary colors, shadow lines,

detailing, and contrasting shapes to create an appealing facade is strongly encouraged. The use of single colors and/or blank walls is discouraged.

- (b) Franchise-style architecture (also known as prototypical or corporate architecture) shall not be allowed in the B-1 Village Business District and is discouraged elsewhere in the Village.
- (c) Development shall conform to the following criteria:
  - i. Buildings shall not overpower the surrounding buildings, uses and landscape.
  - ii. Care shall be given to the character of all sides of the building, not just the "front" facade.
  - iii. Long, uninterrupted blank walls are discouraged.
  - iv. Window and door openings shall be maximized along the front of buildings, to make them inviting.
  - v. Architectural detailing, such as recessed windows and/or doors, bays, and textured materials or decoration, is encouraged to create variety and provide interest.
- (d) In areas where there is a well-established, consistent architectural and/or design character, new developments shall be compatible with the general character of that development. The existing proportional relationship between buildings, open space and building setbacks shall be maintained. New development shall be compatible with the color, height, materials, and design of the predominant style of existing buildings.
- (e) Height: Two-story commercial buildings are encouraged.
- (f) Roof Design: A variety of roof types, heights and gable styles in proportion to building size is encouraged. Extensive use of flat, very low, or very steeply pitched roofs generally shall be avoided.

### (3) Mechanical Equipment

- (a) Rooftop mechanical equipment shall be screened from public view by the use of architecturally compatible materials.
- (b) 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.

### (4) Garbage Disposal Enclosures

- (a) Garbage dumpsters and receptacles shall be placed out of view from adjacent properties, pedestrian ways (trails and sidewalks), and adjoining streets.

- (b) Garbage dumpsters and receptacles shall be fully enclosed in such a way as to prevent access by animals.
  - (c) Garbage dumpsters and receptacles shall be screened with fencing or shrubbery. They must be placed on a concrete or other paved surface.
- (5) Loading docks or service delivery locations shall be located to the rear of the building and screened from view.
- (6) 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.
- (7) Stub Streets: New developments are encouraged to maintain and extend the existing street pattern in the Village, if new streets are proposed as part of a project. If a site plan contains a stub street, the Zoning Board of Appeals may require, as a condition of approval, that such street be extended in the future to serve currently undeveloped abutting properties, and that the design of such stub street shall be adequate to allow such future expansion.
- (8) Lighting and Glare
- (a) Exterior lighting and fixtures for building illumination shall blend with the architectural design.
  - (b) Exterior lighting shall provide adequate illumination for security purposes without excess glare. All lighting, including that in parking lots, shall be located to minimize glare and illumination of adjacent and neighboring properties. Only the amount of illumination needed to do the job shall be used. The use of dark sky compliant lighting is encouraged.
  - (c) Lighting for signs shall be kept to the minimum needed to read the signs.

## **Section 11.14 Landscaping**

### **(A) Purpose**

Well-maintained landscaping improves a community's image, leading to improved economic vitality. Landscaping can improve the image of the community and the pride residents have for their community. Landscaping adds visual interest, seasonal variety and a softer texture to development. Landscaping can serve as a buffer between two conflicting land uses, thus reducing conflict between them. Well designed landscaping can reduce negative visual impacts from development, reduce noise and increase privacy.

**(B) Applicability**

A landscaping plan shall be required of all applications that require site plan review. The Zoning Board of Appeals will evaluate the landscaping plan using the following guidelines:

**(C) Landscaping guidelines****(1) General Standards**

- (a) All exterior areas of any site not required for parking, accessory structures or utility structures shall be landscaped.
- (b) Existing Vegetation: The preservation of mature plant species and of existing trees over 8 inches in diameter (measured at breast height) as a design element in a development's landscape plan is encouraged. The retention and use of existing vegetation may be incorporated into the development's landscaping plan.
- (c) The landscaping plan shall provide sufficient landscaping to adequately screen mechanical equipment, loading docks and other negative site features. In addition, the landscaping plan shall provide sufficient landscaping to serve as a positive site amenity.
- (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 local law.
- (e) The amount and scale of all landscaping should correspond to the proposed land use and the context in which it is located. More landscaping shall be required if the proposed use is not compatible with adjacent land uses or contains site features that need to be screened from view.

**(2) Buffers**

- (a) Landscaped buffers between existing residential uses and new commercial or industrial development are required.
- (b) Landscape plantings within a buffer shall include a variety of species with different heights and widths. The appearance should be natural, with clustering preferred over planting in rows, when feasible.

**(3) Parking Lots**

- (a) Landscaped buffers around the perimeter of parking lots to screen parked vehicles and to improve views to 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 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 should 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.

(4) 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 Zoning Board of Appeals has the authority to revoke the project's site plan approval and occupancy permit.
- (d) The Zoning Board of Appeals 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, including labor cost.

(5) 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 at breast height
Conifers	6 foot height
Small flowering trees	1 inch caliper at breast height
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) Species of trees shall not be planted if the roots may cause damage to public water and sewer lines, if the branches are subject to a high incidence of breakage, or if the fruit is considered a nuisance or high maintenance, as determined by the Zoning Board of Appeals.
- (6) Ground Treatment
- (a) The ground area within required landscaping areas which is not dedicated to trees or preservation of existing vegetation shall receive appropriate landscape treatment and shall present a finished appearance and complete coverage upon completion. Sand or pavement shall not be considered appropriate landscape treatment.
  - (b) Ground cover may be planted in lieu of grass 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.
  - (c) Grass areas shall be planted with species suitable as permanent lawns. Grass areas shall be regularly maintained.

## **Section 11.15 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 all led to a significant increase in the demand for telecommunications facilities within the state. The Village of Little Valley has significant concerns over the location of telecommunication facilities within the Village. 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 Village of Little Valley’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 Village of Little Valley 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 Village of Little Valley 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 Village encourages the placement of telecommunications antennas on suitable existing structures.

### **(B) Review Authority**

- (1) Where allowed in Article 5 the Zoning Board of Appeals is hereby authorized to review and approve, approve with modifications or disapprove special use permits for telecommunications towers, antennas, and facilities pursuant to this law. The zoning board of appeals 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) Nevertheless, pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act), the replacement of antennas on towers, or the addition of antennas and/or other equipment on existing towers shall not require the issuance of a Special Use Permit, provided that the Zoning Officer determines that the proposed additions do not represent a "substantial change" as defined in that law.
- (4) No application for a special use permit shall be accepted for review until the applicant provides proof that space on the facility has been leased by or will be operated by a provider licensed by the FCC to provide service in the area. See Section 11.15(C) (3) below.

### **(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 Review Application
- (3) Project Participants  
Provide the names, addresses, phone and fax numbers of the following involved parties, as appropriate:
  - (a) Landowner of the project site to be purchased or leased

- (b) The service-provider (both the corporate information and a local contact). Include the FCC license number and certificate of need as a public utility.
- (c) Engineering consultant
- (d) Other authorized service providers proposing to co-locate on the tower now or in the near future.
- (e) 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

- (a) Provide a narrative description of the proposed project site, including:
  - i. Existing site improvements, including access, utilities, and the presence of existing towers, buildings, or other structures.
  - ii. Vegetative cover (plant cover types, tree types)
  - iii. Slopes
  - iv. Soils and depth to bedrock
  - v. Wetland and surface water bodies; floodplains
  - vi. Site drainage
  - vii. Any special plant and animal habitats contained on the NYSDEC Natural Heritage Program database
  - viii. Any historic or archaeological resources on the site and any historic resources adjacent to the site.
- (b) 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” analysis, 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 zoning board of appeals 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 Code Enforcement Officer 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 Village Building Code Enforcement Officer 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 Village Code Enforcement Officer of renewal or extension thereof when granted.

(11) Environmental Review and Visual Impact Analysis

All applications to the Village of Little Valley for telecommunications facilities shall be considered as a Type 1 Action under New York State Environmental Quality Review Act (SEQR) and will require a Full Environmental Assessment Form (EAF) and the Visual Addendum to the EAF. The zoning board of appeals 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 zoning board of appeals, 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 zoning board of appeals deems necessary to evaluate the application.

The zoning board of appeals may waive any particular submission requirement(s) it determines unnecessary for review of a particular project.

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

**(D) General Criteria**

No special use permit relating to a telecommunications facility shall be authorized by the zoning board of appeals unless it finds that such facility:

- (1) Is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities.
- (2) Conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration and other federal agencies.
- (3) Is designed and constructed in a manner which minimizes visual impact to the maximum extent practical.
- (4) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
- (5) Conforms to the standards contained in this section and in other sections of this zoning law, unless they are expressly superceded 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 Zoning Board of Appeals.

**(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 zoning board of appeals 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. In all cases, the maximum height for telecommunication towers permitted under this section, including any antennas or other devices extending above the tower, measured from the ground surface, shall be 150 feet.
- (3) Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted 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 zoning board of appeals may consider the type of structure being proposed, the surrounding area, and the potential for its effects on migratory and year-round bird populations.

- (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 zoning board of appeals 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), or as may be requested by other entities such as emergency transportation services. The zoning board of appeals may choose the most appropriate lighting and marking plan from the options acceptable by 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 judgement of the zoning board of appeals, 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 zoning board of appeals to contain on-site substantially all icfall 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 Zoning Board of Appeals 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 extent possible.
- (2) The Zoning Board of Appeals 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 Zoning Board of Appeals may require the installation of signage with safety information, such as "No trespassing" or "Danger. Keep out."

**(M) Bird Protection**

Numerous studies have pointed to the hazards that towers can pose to birds, especially to migratory birds. The U.S. Fish and Wildlife Service has developed a set of interim guidelines for construction of communications towers that are intended to mitigate the hazard such towers pose to birds, based on current scientific research. To the maximum extent possible, consistent with the Telecommunications Act of 1996, and any subsequent amendments, and FAA regulations, communications towers within the Village of Little Valley shall conform to the Fish and Wildlife Service "Interim Guidelines for Recommendations on Communications Tower Siting, Construction, Operation and Decommissioning" dated September 14, 2000 and any future additions, amendments or replacement guidelines that may be issued by the Fish and Wildlife Service. These guidelines are on file with the Village Clerk. Among the recommendations, which should be followed to the maximum extent possible, are the following:

- (1) Towers should use construction techniques that do not require guy wires (i.e. use lattice structure, monopole, etc.
- (2) Security lighting for on-ground facilities and equipment, if required, should be down-shielded to keep light within the boundaries of the site.

Note that the zoning board of appeals may have to balance the protection of birds and the visual intrusiveness of the proposed towers, under some circumstances. Allowing towers that are the minimum height necessary to provide the required service will help meet both the goal of protecting birds and the goal of mitigating the visual intrusiveness of the towers.

#### **(N) Security**

- (1) Towers, anchor points around guyed towers, and accessory structures shall each be surrounded by fencing not less than eight (8) 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.

#### **(O) 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 site 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 Zoning Board of Appeals 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, periodically, 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 Code Enforcement Officer. 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 Code Enforcement Officer. Failure to make the repairs may result in revocation of the special use permit.

**(P) Abandonment and Removal**

- (1) All abandoned, obsolete or unused telecommunication facilities/towers shall be removed within twelve (12) months of cessation of use.
- (2) 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.
- (3) The zoning board of appeals may require, as a condition of approval of the special use permit, that the applicant post a bond with the Village prior to the issuance of a building permit. The bond shall be in an amount sufficient to allow the Village to remove the unused, abandoned or obsolete tower if the owner fails to do so within the prescribed time period.

**(Q) Revocation of Special Use Permit**

The Zoning Board of Appeals shall have the authority to revoke a special use permit, 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 local law for a special use permit application. If the special use permit is revoked, the telecommunications tower and associated facilities shall be removed within ninety (90) days of notification by the Village at the owner's expense.

**(R) 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 12 months from the date of approval of the application.

## **Section 11.16 Townhouse Development**

Townhouses may be allowed as a Planned Unit Development. If so allowed, townhouses shall be developed in accordance with the following regulations. An application for preliminary and final Planned Unit Development Plan approval for a townhouse development shall be lieu of Special Use Permit and Site Plan review.

### **(A) Access and Parking**

- (1) No townhouse shall be constructed so as to provide direct vehicular ingress or egress to individual units from existing Village streets. All townhouses shall take access from an approved interior street that shall be either a public street or a private street that meets the Village's requirements for a public street.
- (2) The width of the road right-of-way and of paved travel lanes may vary depending upon the proposed level of use and the topography of the site. 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 townhouse to the parking area serving that townhouse and to other buildings within the site.
- (4) Shared driveways are permitted, with the recording of perpetual easements for the shared use.
- (5) A minimum of two parking spaces per unit shall be provided.

### **(B) Building 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) No more than nine (9) townhouses may be attached in any one series. There shall be a separation equal to one-half the average height of the end units between two adjacent rows of townhouses.
- (3) Buildings shall be designed to prevent the appearance of straight, unbroken lines in their horizontal and vertical surface. There shall be no more than two continuous townhouse units without a break in either the horizontal or vertical elevations of at least three feet.
- (4) Maximum height for townhouses shall be that of the zoning district in which the parcel is located.

**(C) Landscaping**

- (1) A landscaping plan shall be provided as part of each application. Landscaping shall be required around all buildings and parking areas.
- (2) Buffering may be required to screen higher density development from view of major roadways in the Village.
- (3) The preservation of existing major trees is encouraged.
- (4) Part of the lot may be left as existing natural vegetation. This area shall be shown on the site plan.

**(D) Utilities**

- (1) The townhouse development shall connect to the Village's water supply and sanitary sewer system, if feasible. If an alternative system of water supply or sewage disposal is proposed, these facilities must be approved by the Cattaraugus County Health Department, in writing, prior to final approval of the project.
- (2) The applicant shall demonstrate that the proposed storm water drainage facilities are adequate. An erosion control and stormwater management plan shall be required.
- (3) All utility lines shall be placed underground.

**Section 11.17 Bed and Breakfast Establishments**

Where permitted in Article 5, a Bed and Breakfast Establishment shall conform to all of the following conditions:

- (1) The owner of the Bed and Breakfast must reside in and continue to reside in the dwelling as his/her/their principal residence.
- (2) Each Bed and Breakfast Residence shall be established, maintained and operated so as to preserve and complement the residential character and integrity of the surrounding area when the facility is established in a residential district.
- (3) No guest may stay for a period of time in excess of fifteen (15) consecutive days. No more than five (5) bedrooms of a dwelling shall be occupied by paying guests.
- (4) Food service may only be provided to overnight guests of the establishment and shall be limited to breakfast. A public dining room, restaurant, or bar are expressly prohibited. There shall be no individual kitchen, dining facility or food preparation in any guest room.

- (5) Rooms used for sleeping shall be part of the principal residential structure.
- (6) **Parking:** A Bed and Breakfast shall provide one off-site parking space for each room that is let, in addition to the required two off-street spaces required for the use of the building as a single-family dwelling. Parking shall not be permitted in the front yard and shall be located or screened from view so as to provide no variation from the residential character of the site.
- (7) **Signs:** A Bed and Breakfast Residence may display one sign, either on the wall of the dwelling or a freestanding sign. The sign may not exceed sixteen square feet in area. Freestanding signs shall not be more than four (4) feet high, measured from the ground to the top of the sign.

### **Section 11.18 Junkyards**

A junkyard may be allowed by grant of special use permit in districts so designated in Article 5 of this local law. All junkyards shall conform to the following requirements. Additional requirements may be imposed as a condition of approval of the Special Use Permit. If a special use permit is granted, such permit shall specify the types of materials that are allowed under the approval. If the applicant wishes to expand the business to include other types of materials, application shall be made to the zoning board of appeals for an amendment to the special use permit. Any amendment shall be considered in the same manner as the original application, including the requirement to hold a public hearing.

- (A) The permittee must personally manage or be responsible for the management of the activity or business for which the permit is granted.
- (B) The permittee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others.
- (C) The permittee must erect and maintain in good condition a fence, of wood or other material acceptable to the Zoning Board of Appeals. The fence shall be of such adequate height and construction so as to prohibit the entrance of children and others into the area. The fence shall also provide screening of the junkyard from public streets and adjoining lots. All materials dealt in by the permittee must be kept within the fenced area, or within a wholly enclosed building. If the site of the establishment abuts a residential zoning district, the community facilities district, or a public street or highway, the fence shall be at least fifty feet from the boundary line of the zoning district or from the right-of-way line of the street.
- (D) When the area is not supervised by the permittee or his employees, the fence shall be locked at a secure gate in a secure manner.

- (E) The area of the permittee's activity or business shall not be used as a dump area or as a place for the burning and disposal of junk or trash.
- (F) Open fires are prohibited.

## **Section 11.19 Keeping of Horses**

### **(A) Purpose**

It is the purpose of this section to regulate the Keeping of Horses as an accessory use to single family residential properties and to prohibit the keeping of horses in such a manner or in such locations as to be offensive to occupants of adjoining property or persons residing in the neighborhood.

### **(B) Special Use Permit Required**

- (1) Keeping of Horses may be allowed with a grant of a special use permit in Zoning Districts so designated in Article 5. Before granting a special use permit, the Zoning Board of Appeals shall determine that the application complies with all criteria in this Section, in addition to the criteria contained in Article 9 and elsewhere in this Law.
- (2) In issuing a Special Use Permit, the Zoning Board of Appeals may limit the duration of the permit to a specified time period.
- (3) In accordance with Section 9.8 of this law, the Special Use Permit shall expire if horses have not occupied the property for a period of six months.
- (4) Failure to maintain the property in accordance with the provisions in this Section shall be considered a violation of this Zoning law and a violation of the Special Use Permit. If, upon notice as provided for in Article 7, the property is not brought into compliance with these provisions, the Zoning Board of Appeals may act to revoke the Special Use Permit pursuant to Section 9.9 of this Law.

### **(C) Minimum lot size**

- (1) A lot shall be a minimum of two (2) acres in size, for one horse. The lot shall be an additional 1/2 acre in size for each additional horse that is kept on the property.
- (2) No more than five (5) horses may be kept on any property.

### **(D) Enclosure and shelter**

- (1) Horses shall be kept in a fenced, enclosed area (paddock). The fencing shall be adequate to contain the horses. In no case shall the fence exceed six feet in height. Fences shall not be electrified.

- (2) Within the fenced area, the horses shall have access to a barn, stable and/or other permanent shelter.

**(E) Setbacks**

- (1) No barn, shelter, or paddock shall be located in the required front yard setback area.
- (2) The fenced area (paddock) shall be set back a minimum of 30 feet from the rear and side property lines.
- (3) The barn, stable and/or other shelter shall be set back a minimum of 75 feet from homes on abutting properties and a minimum of 35 feet from all property lines.
- (4) Manure must be kept in the rear of the lot, behind the house. The manure storage area must be set back a minimum of 75 feet from homes on abutting properties and a minimum of 35 feet from all property lines. The manure storage area must be set back a minimum of 75 feet from any stream, pond, wetland, or similar feature.

**(F) Manure Storage and Disposal Plan**

An application for a special use permit to allow the Keeping of Horses shall include a detailed Manure Storage and Disposal Plan. The Plan shall include a scaled sketch plan that shows the location of the barn, enclosure area, and the manure storage area. The Plan shall include a description of how the manure will be stored on site and how it will be disposed of. The Plan shall demonstrate that the property will comply with the following standards:

- (1) Manure, including used bedding, shall be stored on site in such a manner as to minimize any nuisance to neighboring properties from flies and odors.
- (2) The barns, stalls, paddocks and any other grounds where horses are kept shall be maintained free from litter, garbage and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. The property shall be maintained in such a condition so as not to create any condition or odor which would be objectionable to persons occupying adjoining property.
- (3) Manure, including used bedding, shall be stored on site in such a manner as to eliminate runoff of the manure into abutting streams or onto abutting properties and roads.
- (4) The property shall be maintained so as to avoid sedimentation on any public road, adjoining property, or in any drainage channel or other waterway.
- (5) Manure shall be removed from site as often as needed to meet these standards.

**(G) Miscellaneous Regulations**

- (1) Keeping of horses is considered to be an accessory use to the use of the property as a single family residence. Therefore, the property shall contain an occupied, single-family home.
- (2) The horses shall be only for the recreational use of the residents of the property on which the horses are kept. The rental of horses to persons other than the owner is not permitted. Boarding of horses for others who do not live on the property is not permitted, regardless of whether a fee is charged.
- (3) For purposes of this section, the term "horse" includes pony, mule, donkey, and/or miniature horse. No more than a cumulative total of five animals shall be allowed on any one property, based on the minimum lot size requirements, above.

**Section 11.20 Keeping of Chickens****(A) Purpose**

It is the purpose of this section to regulate the Keeping of Chickens as an accessory use to single family residential properties and to prohibit the keeping of chickens in such a manner or in such locations as to be offensive to occupants of adjoining property or persons residing in the neighborhood.

**(B) Special Use Permit Required**

- (1) Keeping of Chickens may be allowed with a grant of a special use permit in Zoning Districts so designated in Article 5. Before granting a special use permit, the Zoning Board of Appeals shall determine that the application complies with all criteria in this Section, in addition to the criteria contained in Article 9 and elsewhere in this Law.
- (2) As part of the application for Special Use Permit the applicant shall provide the manure storage and disposal plan required below, a site plan showing the location of the coop and run in relationship to lot lines and residences on abutting premises, and a sketch of the coop and run, that describes the size, colors and materials of the enclosure.
- (3) In issuing a Special Use Permit, the Zoning Board of Appeals may limit the duration of the permit to a specified time period.
- (4) In accordance with Section 9.8 of this law, the Special Use Permit shall expire if chickens have not occupied the property for a period of six months.
- (5) Failure to maintain the property in accordance with the provisions in this Section shall be considered a violation of this Zoning Law and a violation of the Special Use Permit. If, upon notice as provided for in Article 7, the property is not brought into compliance

with these provisions, the Zoning Board of Appeals may act to revoke the Special Use Permit pursuant to Section 9.9 of this Law.

**(C) Standards**

- (1) The minimum lot size shall be 0.5 acres.
- (2) No more than four (4) hens (female chickens) are allowed. Roosters (male chickens) are prohibited.
- (3) The chickens shall be for the personal use of the residents of the property on which they are located.
- (4) Chickens shall be housed in a fully enclosed coop and fully enclosed run area (the enclosure) at all times.
  - (a) The enclosure must be well ventilated and well drained so there is no accumulation of odor or moisture.
  - (b) The coop shall be a minimum size of thirty-two (32) square feet in area, not to exceed 15 feet in height. The run area shall have a minimum height of four (4) feet and a maximum height of eight (8) feet. Each chicken shall have a minimum of ten (10) square feet of floor area in the run.
  - (c) The enclosure shall be kept clean, sanitary, and free from the accumulation of animal excrement and objectionable odor.
  - (d) The enclosure shall be regularly cleaned to control dust, odor and waste and shall not constitute a nuisance, safety hazard or health problem.
- (5) The coop and run area (the enclosure) is an accessory structure and shall comply with all dimensional, setback and other regulations pertaining to accessory structures. The enclosure shall be located a minimum of 20 feet from any residence on an abutting property. The enclosure shall not be located in the front yard.
- (6) A building permit shall be required for the enclosure.
  - (a) The materials used in making the structure shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials, etc. The use of scrap, waste board, sheet metal, or similar materials is prohibited, except that the coop may have a metal roof.
  - (b) The enclosure shall be well-maintained.
  - (c) The coop shall have a finished exterior, such as paint, stain, vinyl siding or other architectural finish as may be approved by the Zoning Board of Appeals.
- (7) Feed Storage: All food and feed shall be kept in rodent-proof containers.

(8) Manure Storage and Disposal Plan

- (a) Manure shall be either composted or removed from the property. If kept on the property, manure shall be stored in such a manner as to minimize any nuisance to neighboring properties from flies and odors.
- (b) The application for a special use permit to allow the Keeping of Chickens shall include a Manure Storage and Disposal Plan that explains how the manure will be handled.

## **ARTICLE 12**

### **PLANNED UNIT DEVELOPMENT**

#### **Section 12.1 Purpose**

Planned Unit Developments (PUD) are allowed in the Village of Little Valley in order to encourage the establishment of common open space, to achieve economy in the provision and maintenance of public facilities, to allow flexibility in design, to preserve natural drainage systems, and to preserve the natural and scenic features in the Village.

#### **Section 12.2 Authorization**

- (A) The Village Board of Trustees of the Village of Little Valley is hereby authorized to approve, approve with conditions, or disapprove the establishment and simultaneous mapping of one or more Planned Unit Development Districts. If a Planned Unit Development District is approved by the Village Board, it shall be a new zoning district and shall be designated as a Planned Unit Development District on the Village's zoning map. As part of the approval of a Planned Unit Development District, the Village Board shall review and approve a preliminary Planned Unit Development Plan.
- (B) The Zoning Board of Appeals is hereby authorized to review and act on final Planned Unit Development Plans in accordance with the regulations set forth herein. When approving a final Planned Unit Development Plan, the Zoning Board of Appeals 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 Zoning Board of Appeals shall be substantially consistent with the preliminary Planned Unit Development Plan that has been approved by the Village Board of Trustees.

#### **Section 12.3 Applicability**

- (A) A Planned Unit Development may be located in the Village Residential District (R-1) and the Rural Residential (R-2) District.
- (B) All Planned Unit Developments shall contain a minimum of three (3) acres.
- (C) Density
  - (1) The maximum number of single family dwelling units permitted in a Planned Unit Development shall be determined by dividing the total land area of the site by the minimum lot size required for the applicable zoning district. 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.

- (2) No more than five (5) townhouses per gross acre shall be permitted. However, townhouses may be clustered in one area of a site that exceeds this density, as long as the average density of the overall development does not exceed five townhouses per acre.
- (3) Permitted maximum density for multiple family dwellings shall be established by the Village Board of Trustees at the time of approval of the Planned Unit Development District.

**(D) Permitted Uses**

- (1) Planned Unit Developments encourage a mix of land uses and/or a mix of housing types. Multiple family housing, including apartments, townhouses, and zero lot line development may be allowed. Any use permitted in the zoning district in which the parcel is located may be allowed.
- (2) Other uses that are not specifically permitted in Article 5 of this zoning law may be permitted by the Village Board, provided that the use meets all of the following criteria:
  - (a) The use is consistent with the intent and purpose of this law;
  - (b) The use is consistent with the *Little Valley Comprehensive Land Use Plan, 1999*
  - (c) The use will not have an injurious or negative impact on adjacent properties, and
  - (d) The use meets the criteria in Section 12.8 of this local law.
- (3) 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 (for example, a golf course), the Village 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.

**(E) Yard and Area Requirements**

- (1) The PUD may contain minimum front, side and rear setbacks that may be less than those otherwise required for the zoning district in which the site is located.
- (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.

**(F) Required Open Space**

- (1) Land area saved by the reduction in the minimum lot size must 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 or natural features of the site.

- (3) The required open space may be publicly or privately owned.

## **Section 12.4 Pre-Application Conference**

Prior to submitting a formal application, the applicant may meet with the Village Board of Trustees and the Zoning Board of Appeals 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 12.5 Application Procedure**

### **(A) Application**

An applicant shall submit a completed application for a Planned Unit Development District and a preliminary Planned Unit Development Plan to the Village Clerk, who shall forward it to the Village Board of Trustees. The Board shall review the application for the Planned Unit Development District and the preliminary Planned Unit Development Plan in consultation with the Zoning Board of Appeals.

### **(B) Hearing**

Within 90 days of receipt of the complete application, the Village Board of Trustees shall hold a public hearing on the proposed Planned Unit Development District and preliminary Planned Unit Development Plan. Notice of the public hearing and procedures at the public hearing shall be those established in Article 14, Amendments, of this local law. In addition to the required noticing provisions in Article 14, the Village Board of Trustees shall mail a notice of the hearing to the owners of every parcel that is within one hundred (100) feet of all property lines of the subject property at least ten (10) days prior to the public hearing.

At least 30 days prior to the public hearing, the Village Board of Trustees shall refer the application to the Zoning Board of Appeals for its review and recommendation. The Zoning Board of Appeals shall submit its recommendation prior to or at the public hearing.

### **(C) Village Board of Trustees Action**

Within 120 days of receipt of the complete application, and after the public hearing, the Village Board of Trustees shall act to approve, approve with modifications and/or conditions, or disapprove the application for a Planned Unit Development District and preliminary Planned Unit Development Plan.

- (1) If the application is approved, the Zoning Map shall be amended to show the location of the Planned Unit Development District.

- (2) The Village Board of Trustees shall notify the applicant and the Zoning Board of Appeals in writing of its determination within five business days of the date of the action.
- (3) The Village Board of Trustees shall file a copy of the notification to the applicant in the office of the Village Clerk within five business days of the decision.

#### **(D) 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. The Village Board of Trustees may act to establish the entire Planned Unit Development District and approve the preliminary Planned Unit Development Plan, including the phasing plan, for the entire development.

#### **(E) Final Planned Unit Development Plan**

- (1) After the Village Board of Trustees establishes a Planned Unit Development District and approves the preliminary Planned Unit Development Plan, and prior the issuance of a joint Zoning and Building Permit, the applicant shall submit an application for Final Planned Unit Development Plan approval to the Zoning Board of Appeals. The Final PUD Plan shall be substantially consistent with the preliminary Planned Unit Development Plan that was approved by the Village Board of Trustees. If the preliminary PUD Plan included a phasing plan, the Final PUD application may consist of one or more phases as approved as part of that Plan. However, Final PUD Plan approval must be obtained for each phase of the development before a joint Zoning and Building Permit can be issued for that phase of the development.
- (2) Within 62 days of the receipt of a complete application for a Final Planned Unit Development Plan, the Zoning Board of Appeals shall make a decision on the application, using the criteria in Section 12.8, Article 10 and other relevant sections of this Zoning Law. A public hearing is not required prior to the Zoning Board of Appeals' determination.
  - (a) If the Zoning Board of Appeals determines that the application is substantially consistent with the approved preliminary Planned Unit Development Plan and complies with the relevant criteria in the Zoning Law, the Zoning Board of Appeals may approve or approve with modifications and/or conditions the Final PUD Plan.
  - (b) If the Zoning Board of Appeals, in consultation with the Village Board, determines that the proposed Final Planned Unit Development Plan is not consistent with the approved preliminary Planned Unit Development Plan, the Zoning Board of Appeals shall deny the application.

- (3) The Zoning Board of Appeals' determination shall be filed in the office of the Village Clerk within five business days after such decision is rendered, and a copy of the decision shall be mailed to the applicant.

#### **(F) Amendment of Planned Unit Developments**

The applicant may apply to the Village Board of Trustees to amend an approved Planned Unit Development District and preliminary Planned Unit Development Plan. The Village Board of Trustees 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 (SEQRA).

### **Section 12.6 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 types of 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 Village Board of Trustees to evaluate it using the criteria in this local law and in Section 12.8. 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 Village Board of Trustees
- (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.
- (3) A written statement (or maps) containing the following information:
  - (a) A general description of the types of landscaping and screening to be provided.
  - (b) A statement of how water supply and waste disposal systems will be provided.
  - (c) General description of architectural style, height, size and location of buildings.
  - (d) A statement of the present and future ownership and tenancy of the Planned Unit Development.
  - (e) 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.
  - (f) A statement of what facilities, if any, shall be offered for dedication to the Village
  - (g) A statement of how the open space and/or common areas of the development shall be owned and maintained.

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

### **Section 12.7 Application Requirements for Final Planned Unit Development Plan**

The Final Planned Unit Development Plan application shall contain the following items:

- (A) 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:
  - (1) scale and north arrow
  - (2) Proposed name of the development
  - (3) Topography of the site showing existing and proposed contours at no greater than five-foot intervals.
  - (4) A complete site plan, as detailed in Article 10 of this local law.
  - (5) The location and size of all existing and proposed buildings, structures and improvements.
  - (6) The architectural style, colors and materials of all buildings, including elevations.
  - (7) Maximum height, dimensions, and square footage of all buildings.
  - (8) Area and dimensions of all lots proposed to be created as part of the project.
  - (9) A landscaping plan
  - (10) A complete circulation plan, including streets, driveways, parking areas and walkways.
  - (11) Location and dimension of all recreational and open space areas.
  - (12) Detailed drainage systems and runoff control
  - (13) Detailed description of water supply and sewerage facilities.
  - (14) A lighting plan
  - (15) Any other information required by the Zoning Board of Appeals.

(B) A written statement containing the following information:

- (1) Offers of dedication, if any, to the Village for streets and other facilities. The Village Board of Trustees shall act to accept or not accept any offers of dedication.
- (2) 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 Zoning Board of Appeals may waive the requirement for submittal of one or more of the above listed items.

### **Section 12.8 Criteria for Review**

In acting on an application for a Planned Unit Development, the Village Board of Trustees and the Zoning Board of Appeals shall consider the following criteria:

- (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 fifteen percent (15%).
- (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 shadows, noise, and traffic on the residents of the site and on adjacent sites.
- (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 comprehensive plan and this zoning law.
- (G) The Planned Unit Development shall not adversely affect neighboring property.
- (H) The Planned Unit Development shall have an adequate water supply system and an adequate system for the disposal of sewage. If the PUD is not connected to the Village's municipal water and sewer systems, the proposed systems shall be approved, in writing, by the Cattaraugus County Health Department.
- (I) Streets and storm water drainage systems shall meet all the requirements of the Village of Little 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.
- (K) The adequacy of the proposed landscaping.
- (L) The adequacy of lighting for the Planned Unit Development and its lack on impact on neighboring properties.
- (M) If new streets are proposed, they should connect into the Village's existing street pattern, to the maximum extent feasible. The number of driveway entrances onto the Village's existing street pattern should be minimized in order to promote traffic safety and flow.
- (N) The adequacy of the internal circulation system.
- (O) Utility lines shall be placed underground.
- (P) The relationship of the proposed development to the one hundred (100) year floodplain, to state designated wetlands and to other geologic hazards.
- (Q) If reductions in lot sizes have been allowed, the Planned Unit Development shall contain the open space required by Section 12.3 (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 offered for dedication to the Village of Little Valley, or it may be held as private open space. In assessing the suitability and usability of the required open space, the Village Board of Trustees shall use the following criteria:
  - (1) All Planned Unit Developments shall contain open space that is 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 12.9 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 Village of Little Valley or some other governmental agency. "Private open space" means lands which shall be owned in common by all of the owners of all of the lots in a Planned Unit Development, 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 to the Village of Little Valley, the Village Board of Trustees shall decide whether or not to accept the open space dedication. In making its determination, the Village Board shall consider the intended use of the land, the size and location of the land, the availability of the open space to the public, and the cost of development and/or maintenance of such open space.
- (C) If the open space is not dedicated to the Village of Little Valley, it shall be protected by legal arrangements, satisfactory to the Village Board of Trustees, sufficient to assure its maintenance and preservation for whatever purpose is intended.
- (1) Covenants or other legal arrangements shall specify ownership of the open space, the method of maintenance, responsibility for maintenance, payment of taxes and insurance, compulsory membership and compulsory assessment provisions, guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Village Board, and any other specifications deemed necessary by the Village Board of Trustees.
  - (2) In addition, the Village of Little Valley shall be legally empowered to enforce the covenants in the event of failure of compliance. If the Village is required to perform any maintenance work, the Village shall be empowered to place a lien upon the properties in the development until said cost has been repaid to the Village.
  - (3) The covenant shall further require that the developer shall be a member of any association formed to own and maintain the open space; the developer's membership shall continue until all of the lots of record have been sold.

## **Section 12.10 Expiration of Approval for the Planned Unit Development**

Within one year of the approval of a preliminary Planned Unit Development Plan, the project sponsor shall apply to the Zoning Board of Appeals for Final Planned Unit Development Plan approval for the project, or for phases of the project if the Board of Trustees approved a phasing plan. If application for Final Planned Unit Development Plan approval is not made within this timeframe, the Board of Trustees may take action to rescind its approval. Prior to any rescission, the Board of Trustees shall hold a public hearing and provide notice to the project sponsor,

property owner, and others as required in Section 12.5. If the approval is rescinded, the zoning of the area shall revert to its designation prior to the PUD Zoning District.

Construction in accordance with an approved Final Planned Unit Development Plan shall commence within one year of that approval, and site development shall continue in accordance with the phasing plan approved by the Village Board of Trustees. If construction does not commence within this time, the Village Board of Trustees may take action to rescind its approval, following the process outlined in the preceding paragraph.

### **Section 12.11 State Environmental Quality Review Act**

Prior to taking final action on an application for Planned Unit Development, the Village Board of Trustees shall comply with all the requirements of the State Environmental Quality Review Act.

## **ARTICLE 13**

### **MANDATORY REFERRAL**

#### **Section 13.1 Proposed Actions Subject to Referral**

(A) In accordance with the laws of New York State, the following proposed actions by the Village Board of Trustees, 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 13.2.

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. Any other authorizations which a local board may issue under the provisions of this zoning law.

(B) Notwithstanding the above sub-section, an application need not be referred to the County Planning Board if it is exempt from referral pursuant to the *Referral Exemption Agreement between Cattaraugus County Planning Board and the Village of Little Valley*, dated August 14, 2012. (See Appendix A).

#### **Section 13.2 Geographic Criteria**

The proposed actions set forth in Section 13.1 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 13.3 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 subject to the provisions of this Article.

### **Section 13.4 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 14 AMENDMENT**

### **Section 14.1 Village Board May Amend**

The Village Board of Trustees from time to time on its own motion, or on petition, or on recommendation of the Zoning Board of Appeals may amend, supplement or repeal the regulations and provisions of this law after public notice and hearings as provided by the Village Law.

### **Section 14.2 Review By Zoning Board of Appeals**

Every such proposed amendment or change, whether initiated by the Village Board of Trustees or by petition, shall be referred to the Zoning Board of Appeals for a report thereon prior to Village Board action on the proposal. If the Zoning Board of Appeals fails to submit such report within thirty (30) days of the date of referral, or within such longer time period as may be established by the Village Board of Trustees, it shall be deemed that the Zoning Board of Appeals has approved the proposed amendment or change.

### **Section 14.3 Public Notice and Hearing**

The Village Board of Trustees 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 a newspaper of general circulation in the Village. 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) Notice of the public hearing shall be mailed to the Cattaraugus County Planning Board at least 10 days in advance of the public hearing.
- (3) 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 Village Board and shall include within its proceedings:

- (1) 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 Village Board.

### **Section 14.4 Adoption**

- (A) Prior to final action by the Village Board of Trustees on the proposed amendment, it shall be referred to the Cattaraugus County Planning Board following the provisions of Article 13 of this law.
- (B) Any such amendments may be approved by a simple majority vote of the Village Board of Trustees, except that any such amendment shall require the approval of at least three-fourths of the members of the Village Board of Trustees in the event such amendment is the subject of a written protest, presented to the Village Board of Trustees 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.

**Section 14.5 Filing Requirements**

- (A) Amendments made to this law, excluding any map incorporated therein, shall be entered in the minutes of the Village Board of Trustees. 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 the official newspaper of the Village.
- (C) A copy of the amendment, together with an abstract or summary of any amendment to the zoning map, shall be posted conspicuously at or near the main entrance to the office of the Village Clerk.
- (D) Affidavits of the publication of the summary and posting of the amendment shall be filed with the Village Clerk.
- (E) The Village 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.

**Section 14.6 Compliance with State Environmental Quality Review Act**

Prior to their final action on any amendment to this zoning law, the Village Board of Trustees shall fully comply with the provisions of the State Environmental Quality Review Act (SEQRA).

**ARTICLE 15**  
**EFFECTIVE DATE**

This local law shall take effect immediately.

## **Appendix A**

# Referral Exemption Agreement between the Cattaraugus County Planning Board and the Village of Little Valley

Effective Date:  
August 14, 2012