

**TOWN OF CHARLOTTE
ZONING LAW**

Updated November 2, 2012

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ARTICLE I
TITLE, ENACTING CLAUSE, PURPOSE

SECTION 101 **Title**

A Local law regulating the location, construction and use of buildings, structures, and the use of land in the Town of Charlotte, County of Chautauqua, State of New York, and for said purposes dividing the Township into districts. This Local Law shall be known as the Town of Charlotte Zoning Law.

SECTION 102 **Enacting Clause**

Pursuant to the authority conferred by the Laws of the State of New York and for each of the purposes specified herein, the Board of the Town of Charlotte, County of Chautauqua and the State of New York, 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 Town of Charlotte.

SECTION 103 **Purpose**

A. Comprehensive Plan – The Zoning regulations and districts set forth and outlined upon the zoning map are made in accordance with a comprehensive plan for the Town of Charlotte. The enactment of the Zoning Law brings benefits to the municipality which may not be highly or immediately visible. However, it is intended that the resulting conditions will enhance and preserve the quality of living, health and safety for the municipality.

B. General – General benefits derived from Zoning Laws include the following:

1. promote health, convenience, economics and general welfare of the community;

2. balance the rights of the public-at-large, private landowners and other various interest groups;

3. encourage the positive shaping of the future and the long-range benefits associated with Zoning Laws;

4. allow for the maintenance of an equitable assessment role;

5. impose some reasonable restraints on opportunists; and

6. zoning is controlled locally, may be amended to meet changing needs and has built-in flexibilities for unique situations.

C. Safety – From a safety viewpoint, Zoning Laws assist in promoting fire and traffic safety and in protecting residents from other conditions which might be injurious to health.

D. Quality – Zoning Laws work toward perpetuating the highest possible quality of life by:

1. maintaining a rural atmosphere in selected areas;
2. promoting the retention of an aesthetically pleasing community by minimizing nuisances and visually unattractive developments;
3. insuring adequate light, air and open space; and
4. maintaining the character of residential neighborhoods by providing appropriate locations for living and raising a family through types of uses encouraged in a district.

E. Economics – Zoning Laws also positively affect a community’s economic structures by:

1. optimizing the use of existing infrastructure;
2. utilizing existing roadways optimally while discouraging the creation of new roads, except as needed;
3. encouraging the retention of prime agricultural, commercial and industrial properties for those uses for which they are best suited; and
4. encouraging the largest tax base possible through controlled development.

F. Stability – Zoning Laws also contribute a great deal to neighborhood stability by:

1. keeping rural municipalities from being a dumping ground;
2. protecting property values and individual investments by encouraging proper development for each type of district;
3. maintaining the character of a neighborhood by providing a stable and orderly living environment; and
4. keeping nuisances to a minimum, especially in residentially oriented neighborhoods.

SECTION 104

Application of Regulations

A. Compliance Responsibility – it shall be the responsibility of all property owners, developers, lessors and other involved with the temporary or permanent use of land or structures to comply with regulation of this Zoning Law.

B. Regulation Applicability – the regulations of this Law shall apply and shall require a Building Permit (except as specifically exempted – See section on Building Permits) for the following situations:

1. To occupy a structure or land.
2. To erect, alter, enlarge, move or demolish a structure.
3. To change one use to another use including the increasing of families utilizing land or structures.

C. Other Related Regulations – The following regulations shall, as applicable, be complied with prior to occupying, or where specifically stated, prior to issuance of a Building Permit:

1. Subdivision Laws – State and existing local subdivision laws must be

complied with in addition to this Zoning Law.

2. National Flood Insurance Program – It shall be the responsibility of the applicant for a Building Permit to insure that the National Flood Insurance Regulations shall be complied with for those parcels located within the flood plain as shown on official Flood Insurance Administration maps.

3. Health Department Rules – The regulations of the State and County Health Departments with respect to water supply and sewage disposal facilities will apply. The applicant for a Building Permit must obtain a copy of the required health department permits for attachment to his application, before the issuance of local approval by the Code Enforcement Officer.

4. Multiple Residence Law – For all dwellings with 3 or more dwelling units or any dwelling two or more stories in height with 5 or more roomers, the “Multiple Residence Law”, Chapter 61B of the Consolidated Laws, sets forth certain requirements with regard to fire safety, size of rooms, and other minimum health and safety specifications.

5. Uniform Fire and Building Code – As required by New York State Uniform Fire and Building Code. All new construction must comply.

6. State Environmental Quality Review.

7. Wetlands – federal and state regulations.

8. Right of way crossings.

D. Federal Fair Housing Law – It is illegal to discriminate against any person because of race, color, religion, sex, handicap, familial status or national origin.

1. Any person that feels they have been discriminated against may file a complaint of housing discrimination with:

U.S. Department of Housing and Urban Development
Assistant Secretary for Fair Housing and Equal Opportunity
Washington, D.C. 20410

Or by calling: 1-800-669-9777 (Toll Free)
 1-800-927-9275 (TTY)

BUILDING SETBACK LINE – An established line within a property defining the minimum required distance between the face of any structure to be erected and the edge of the road of an adjacent highway.

BY RIGHT – Refers to uses requiring a permit but with no public hearing required.

CAMPGROUND – Any area designed for transient occupancy by camping in tents, camp trailers, motor homes, truck cap campers, pickup campers or a similar facility designated for temporary shelter. A campground can not own trailers or structures and rent them to others unless it first obtains a permit for a new commercial use for a tourist accommodation or mobile home park.

CLUSTER DEVELOPMENT – A development of 5 acres or more where a developer may elect, after Board approval, to cluster or group his development in return for the permanent creation of common areas. Overall, the density of development remains approximately the same as required by the district area requirements.

COMMERCIAL – Done or acting for profit.

DAY CARE CENTER – A structure, together with its lot, operated on a regular basis, for the purpose of providing daytime care and instruction for 5 or more children up to 5 years of age. Similar uses going under names such as Day Nurseries, shall for the purpose of this Law be considered to be Day Care Centers.

DECK – An unroofed open structure projecting from an outside wall of a structure without any form of enclosure.

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

DISPLAY FACE – The portion of the sign structure carrying the advertisement.

DUMPSTER – A refuse receptacle capable of holding one yard or more of refuse.

DUPLEX – A dwelling arranged, intended, or designed to be occupied by 2 families living independently of each other.

DWELLING – A building or structure that meets the following criteria:

- a. Designed, used or intended to be used as complete living quarters for one family or household.
- b. Provides cooking and bathroom facilities and an independent entrance from the outside or from a common hall or entryway.
- c. Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.

ENFORCEMENT OFFICER – Shall mean the Zoning Officer of the municipality.

FAMILY DAY CARE HOME – in accordance with Sections 390 of the Social Services Law, and individual’s home used to care for 3 to 6 children away from their homes for less than 24 hours per day for compensation for more than 5 hours per week. The provider’s own children under 6 years old shall be counted toward the maximum number allowed. An annual permit from the Social Service Department is required with the applicant required to verify fitness to care for children, sound health, sufficient finances, and adequate physical plan, etc.

FARM – Any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry, and/or dairy products. It includes necessary farm structures and the storage of equipment used.

FARM MARKET – An operation selling agricultural produce and plant materials which have been grown on- or off-site (edible and nonedible) and other incidental and ancillary items such as fertilizers, herbicides and pesticides, lawn and garden tools and equipment, and lawn furniture.

GARAGE, DETACHED PRIVATE NON-ACCESSORY (:Detached private non-accessory garage”) – means a stand-alone building designed or used primarily for the shelter or storage of vehicles or boats, but not airplanes, that is not accessory to a single-family or duplex residence on the same building site. Where any vehicles or boats are equipped for operation, repaired or kept for remuneration, hire or sale, the term “private garage” does not apply. This term shall not include agricultural buildings.

GROUP CAMP – Any land or facility for seasonal housing and recreational, education- or business-related use by private groups or semiprivate groups, such as a Boy or Girl Scout Camp, fraternal lodge or university or college conference center.

HEAVY VEHICLES – Automobile wreckers, commercial trailers, semi-trailers, or any vehicle or truck with three or more axles, which is subject to vehicle regulations and state inspections, for use on public highways.

HOME FOR AGED – A structure principally used to house senior citizens in which a separate household is established for each family. Nursing homes are not considered to be a home for aged.

INDUSTRY, GENERAL – The manufacture, preparation, processing, milling or repair of any article, substance, or commodity, and which involves no dangerous or toxic product or emissions. Additionally, noise, odors, or other nuisances incidental to productions and processing shall be limited to a level which does not affect the use or enjoyment of property.

INDUSTRY, HEAVY – A heavy industry is defined as any process of goods or articles by hand or machine in such a manner that 1 or more of the following may carry beyond

the boundary of the property upon which the industry is located: Fire hazard, radioactivity, electrical disturbance, noise, vibration, dust, smoke, odor, air pollution, or glare. The storage of raw material, component parts, and waste materials by necessity must be carried on outside of a building.

INDUSTRY, LIGHT – A light industry is any processing of goods or articles by hand or machine, conducted within an enclosed building in such a manner that no fire hazard, radioactivity, electrical disturbance, noise, vibration, dust, smoke, odor, air pollution, or glare may be detected beyond the boundary lines of the property upon which a light industrial plant is located. The storage of raw material, component parts, finished products and waste material is within an enclosed building.

JUNK YARD – See definitions of Scrap Yards and Vehicle Dismantling Yards.

LOT, COVERAGE - That percentage of the lot which is devoted to building area. District regulations contained herein refer to the maximum percentage of the lot area devoted to building area.

LOT LINE – Any line dividing one lot from another.

LOT WIDTH – The horizontal distance between the side lot lines measured at right angles to its depth at the building line.

MANUFACTURED HOME – A portable unit designed and built to be towed on its own chassis, comprised of a frame and wheels, connected to utilities and designed without permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity. Such definition does not include section unit structures, travel trailers, motorized homes, pickup coaches and camping trailers.

MOTOR VEHICLE SERVICE STATION – Any area of land, including structures therein, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles, but not including the painting thereof by any means, body and fender work, or the dismantling or replacing of engines.

MUNICIPALITY – Shall mean the Town of Charlotte.

NON-CONFORMING DIMENSIONALLY – The status of a building or structure that is conforming in use but does not conform to the lot dimension, yard dimension, height, building coverage, off-street parking, loading or similar dimensional requirements of this chapter and which conformed to such dimensional requirements of the zoning chapter in effect at the time of such building or structure was established.

NON-CONFORMING USE – The use of a building, structure or plot of land that does not conform to the use regulations of the district or zone in which it is situated, which use was lawful under the code of the time the use was established. See “non-conforming dimensionally.”

NUISANCE – An offensive, annoying, unpleasant, or obnoxious condition, use, or thing which produces effects of such a nature or degree that it is detrimental to the health, safety, general welfare, or property value of nearby properties. Common examples of nuisance include excessive odors, noise, smoke, vibration, light, runoff, traffic, development, density, and electronic interference.

NURSING OR CONVALESCENT HOME – A structure designed or used for residential occupancy and providing limited medical or nursing care on the premises of occupants, but not including a hospital or mental health center.

PERCOLATION RATE – The number of minutes it takes for water to drop 1 inch for 2 successive percolation tests giving approximately equal results.

ZONING BOARD OF APPEALS – Refers to the Town of Charlotte Zoning Board of Appeals unless otherwise indicated.

PREEXISTING USE – Any use, either conforming or nonconforming with this Law that is legally existing at the enactment of this Law.

PUBLIC – Owned, operated, or controlled by a governmental agency (Federal, State, or Local) including a corporation created by Law for the performance of certain specialized governmental functions, a public school district, or service district.

PUBLIC, QUASI – An organization which serves a governmental functions, but is not governmental use per se. A volunteer fire department is an example.

PUBLIC UTILITY – Any person, firm, corporation or municipal department, duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, transportation, or water.

REFORESTATION – Conservation activities aimed at the management of large tracts of land with the express purpose of optimally utilizing timber.

REST HOME – Commonly referred to as homes for the aged. These facilities provide sleeping rooms for ambulatory (able to walk) residents. Generally, rest homes have common eating rooms and provide minimal medical aid to residents. Only incidental convalescent care is provided which does not involve either nurses, physical therapy, or other activities provided in a hospital or nursing home.

RETAIL BUSINESS, GENERAL – For the purposes of this Law, whenever a general retail business is listed as an allowed use, it shall signify that any retail business which

has minimal negative impact and can meet the conditions specified in this Law shall be allowed in addition to the specific retail uses listed as being allowed.

ROADSIDE STAND – A temporary structure for the sale of produce produced on site.

SCRAP YARD – Any place of storage or deposit of more than 100 square feet, usually of commercial nature, where metals, glass, rags, etc., are held, whether for the purpose of disposal, reclamation, recycling or resale of such, including establishments having facilities for processing iron, steel, and nonferrous scrap for re-melting purposes.

SEASONAL CAMP – A single building used as a temporary dwelling on a seasonal basis which may not have heat, electric or sewer. Accessory structures may also be present.

SERVICE BUSINESS, GENERAL – For the purpose of this Law, whenever a general service business is listed as an allowed use, it shall signify that any service business which has a minimal negative impact and can meet the conditions specified in this Law shall be allowed, in addition to the specific uses listed as being allowed.

SETBACK – Distance measured from the street edge to a structure, sign, etc.

SIGN – Any structure or part thereof, attached thereto, or painted, or represented thereon which shall display or including any letter, word, model, banner, flag, pennant, insignia, devise of representation used for the purpose of bringing the subject thereof to the attention of the public. The word sign does not include the flag, pennant or insignia of any nation, state, city, or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious, or like organization, or the property itself.

SIGN, STRUCTURE, ADVERTISING – Any outdoor sign, including those signs already described in Section 614 C and G, which display information on uses, events, goods, products, services or facilities offered at location other than on the tax lot where the sign is located. The words “advertising sign” include the word “billboard”.

SIGN, AREA – The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed four (4) sided (straight sides) geometric shape which most closely outlines the said sign. Only one (1) side of a sign shall be used in measuring the area.

SIGN, BUSINESS – A sign permitted use conducted on the premises which shall identify the written name and/or type of business and/or trademark of an article for sale or rent on the premises or otherwise call attention to the use conducted on the premises.

SIGN, IDENTIFICATION – A sign for permitted use conducted on the premises or for articles sold or distributed by that use, or displaying the name of the premises.

SIGN, INSTRUCTIONAL – Any sign conveying instructions with respect to the use of the premises or a portion of the premises on which it is maintained or a use or practice being conducted on the premises.

SIGN, NAMEPLATE – Any sign attached directly to the wall of a building occupied by the person to who such sign indicated the name, occupation and/or address of the occupant. A nameplate shall not be over two (2) square feet in size.

SIGN, TEMPORARY – A sign which offers premises for sale, rent, or development; or announces special events or calls attention to new construction or alteration; or offers a sale of seasonal garden produce, garage, household, porch items or signs of similar nature; or political signs. Temporary status of signs will expire after ninety (90) days.

SPECIAL USE PERMIT – A special use permit deals with special permission, granted only by the Zoning Board of Appeals to occupy land for specific purposes when such use is not permitted by right, but is listed as permitted by special use permit.

STORAGE BUILDING, NON-ACCESSORY (“non-accessory storage building”) – means a structure used for storage of belongings, not accessory to a single-family or duplex residence located on the same building site, not designed for human habitation, and not used for remunerative purposes. This term shall not include agricultural buildings.

SWIMMING POOL – an above ground or in ground unit which is capable of containing water to depth of 24 inches.

TEMPORARY DWELLING UNIT (MOBILE) – Dwellings intended for temporary occupancy and including, but not limited to: travel trailers, motor homes, truck campers, and tents. (Persons residing in the primary dwelling unit located on the parcel.)

TEMPORARY USE – An activity conducted within a structure or on a tract of land for a specific limited period of time which may not otherwise be permitted by the provision of this Law. For example, a building used in conjunction with new construction which would be removed upon completion of the work.

TOURIST ACCOMMODATION – Any hotel, motel, bed-and-breakfast, resort or tourist cabin designed to house the general public (not including a travel trailer, travel vehicles or motor homes).

TRAVEL TRAILER CAMP – A parcel of land under single ownership which is designed and improved for use by two or more travel trailers.

TRAVEL TRAILER OR TRAVEL VEHICLE – Any portable vehicle, including a tent camper or motor home, which is designed to be transported on its own wheels, which is designed and intended to be used for temporary living quarters for travel, recreation or vacation purposes and which may or may not include one or all of the accommodations

and facilities customarily included in a mobile home, provide that any travel trailers used for residential purposes for more than 30 consecutive days or 45 days aggregate in any one calendar year shall be considered a mobile home.

USE – Any purpose for which land or a building is designed, arranged, intended, or for which it is, or may be occupied or maintained.

VEHICLE DISMANTLING YARD – Any place of storage or deposit where 4 or more unregistered, old or secondhand vehicles, no longer intended for or in condition for legal use on public highways are held, whether for resale of parts or materials, or used parts and waste materials, which, when taken together equal in bulk 4 or more vehicles, shall constitute a vehicle dismantling yard. This excludes farm vehicles and facilities for processing iron, steel and/or nonferrous materials for scrap.

VARIANCE – Permissive waivers from the terms of the Law, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Law will result in unnecessary hardship or practical difficulty or that the spirit of the Law shall be observed and substantial justice done and granted by the Zoning Board of Appeals.

WHOLESALE BUSINESS, GENERAL – For the purpose of this Law, whenever a general wholesale business is listed as an allowed use, it shall signify that any wholesale business which has a minimal negative impact and can meet the conditions specified in this Law shall be allowed in addition to the specific wholesale uses listed as being allowed.

WILDLIFE HABITAT – A publicly owned or quasi-public property retained in its natural state for the maintenance of wildlife.

**ARTICLE III
ESTABLISHMENT OF DISTRICTS**

SECTION 301 Creation and Enumeration of Districts

For the purpose and provisions of this Local Law, the municipality is hereby divided into the following types of districts.

Agricultural and Residential	(AR-1)
Commercial-Industrial	(C-I)
Flood Plain	(FP)

SECTION 302 Zoning Map

The boundaries of the zoning districts as herein established are shown on the map entitled “Zoning District Map of the Town of Charlotte, New York, dated December, 2007,” which map accompanies and is made a part of this Zoning Law.

SECTION 303 Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street liens, or highway right-of-way lines shall be construed to be such boundaries.

B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

C. Where district boundaries are so indicated that they are approximately parallel to the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.

D. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of jurisdiction of the Town unless otherwise indicated.

E. Any flood boundary shown on the Zoning Map indicated general location only. The precise location of flood plain boundaries shall be established by the Building Inspector after consulting with the Chautauqua County Planning Board.

F. Any party aggrieved by an interpretation may appeal to the Zoning Board of

Appeals, whose decision will be final. However, all decisions of the Zoning Board of Appeals are subject to court reviews in accordance with applicable laws of the State of New York. The burden of proof shall be on the appellant.

**ARTICLE IV
DISTRICT REGULATIONS**

SECTION 401

Agricultural-Residential (AR-1) District

A. Purpose – AR-1 districts are established to promote maintenance of agricultural lands as well as to allow large lot residential development. The providing of municipal sewage or water systems is not recommended or encouraged.

B. Uses by Right

- Agricultural Buildings
- Agricultural Land Use
- Church
- Church Parsonage/Rectory
- Duplex (two-family) Dwelling
- Farm Animals
- Fences/Walls in accordance with Section 510
- Forestry/Lumbering/Reforestation
- Game Farm/Fish Hatchery/Reserve
- Garage when accessory to one or two family dwelling
- General Agriculture Business
- Gravel and Sand Operation in accordance with Section 603
- Home Daycare Center
- Home Occupation
- Household Sale/Garage Sale
- Manufactured home in accordance with Section 608
- Municipal Office
- Outdoor Storage – one of each of the following:
 - Recreation Vehicle (Camper), Cargo Trailer, Boat, Boat Trailer, Each must be owned for personal use by a resident on the premises
- Pond
- Public Parks
- Public Uses – Library, School, Civic Building, Highway building, etc.
- Seasonal Camp in accordance with Section 602
- Single-family Dwellings (conventional, prefab., modular)
- Storage building when accessory to single family dwelling and less than 300 sq. ft.
- Swimming Pool – private
- Tennis Court – private
- TV Dish Antenna
- Utilities – support buildings and utility lines
- Wildlife Habitat
- Wind Energy Systems in accordance with Section 618

C. Uses by Special Use Permit

- Airport/Airstrip

- Animal Farms (mink, etc)
- Boarding Homes/Bed and Breakfasts
- Blacksmith Shop
- Cabins/Cottages – commercial
- Camp in accordance with Section 602
- Campground, Group Camps and Camping Vehicles Camps
- Cemetery/Crematory
- Communication Tower
- Farm Market
- Garage, detached private non-accessory
- Golf Course – private or public
- Storage building, non-accessory

D. **Area Standards** – Note that State Health Laws may require more are than below.

1. Single Family dwellings and other allowed uses (excluding structures which house or are intended to house more than 1 family unit) shall meet the following standards:

Minimum Lot Size (Sq. Ft.)	2 Acres/87,120
Minimum Lot Width (Ft.)	150
Minimum Front Yard (Measured from middle Of road in Ft.)	75
Minimum Rear Yard (Ft.)	20
Minimum Side Yard (Ft.)	20
Minimum Floor Space (Sq. Ft.)	750

NOTE: Refer to Articles V and VI for other requirements

SECTION 402 Commercial-Industrial (C-I)

A. **Purpose** – Commercial-Industrial districts are established to accommodate general commercial, industrial and related structures and uses. It is the intent to maintain a quality environment that will lead to the development and maintenance of a well-planned industrial area or areas, which may attract sophisticated industrial establishments, and enhance the general welfare of the Town residents, yet assuring both industry and residents a safe and stable working and living area.

B. Uses by Right (Permit Required)

All uses allowed in AR-1 district by right (Section 401)

C. Uses by Special Use Permit

- Accessory Apartment
- Amusement Park
- Animal Hospital
- Animal Shelter
- Antique Shop

Apartment Buildings/Condo/Townhouses
Appliance Repair Shop
Auto Body Repair Shop
Auto Sales/Used Car Lot
Bakery Shop
Bank
Bar/Liquor Store
Barber/Beauty Shop
Boat Storage Business
Building Contractor Business
Building Materials Store
Car Wash
Carnival/Circus – temporary
Catalog Shop
Corner Store/Grocery
Daycare Center
Department/Variety Store
Drive-in Business
Drug Store
Electronic and Small Parts Manufacturing
Farm Machinery/Implements Store
Feed and Seed Shop
Florist Shop
Food Supermarket
Fraternal Meeting Facility
Funeral Home
Furniture/Appliance Store
Gas Compressor in accordance with Section 612
General Heavy Industry
General Light Industry
General Service Business in accordance with Section 601
Hardware/Glass Paint Shop
Heavy Vehicle Parking in accordance with Section 607
Homes for the Aged
Hospital
Hotel/Motel
Junk/Scrap Yard
Lab and Research – commercial
Laundry/Dry Cleaning Shop
Library/Museum/Gallery
Limited Professional/Business Office including offices of Not-For-Profit Organizations
Limited Retail Stores
Limited Service Shop
Limited Wholesale Business/Warehouse
Machine Shop

Manufactured Home/Trailer Sales
 Manufacturing – general
 Manufacturing of Food Products
 Mill Structure
 Mobile Home Parts in accordance with Section 610
 Monument Sales
 Multiple Dwellings – attached – 3 or more dwelling units
 Nursery/Greenhouse – commercial
 Nursing Homes/Rest Homes
 Parking – commercial lot
 Pet Store
 Photographic Studio
 Plumbing/Heating Supplies Shop
 Public Swimming Pool
 Realty Office
 Rental Store
 Restaurant
 Riding Academy/Stable
 Sawmill – commercial
 Self Storage Business and Rental Space
 Shopping Center/Mall
 Ski Area – commercial
 Sludge Removal, Topsoil Removal, Sludge or other Waste Disposal
 Storage Structures over 300 square feet
 Temporary Dwelling Units
 Temporary Manufactured home in accordance with Section 608
 Tennis Court – public
 Tire Dump
 Tourist Accommodation
 Truck Terminal
 Vehicle Dismantling in accordance Section 605
 Wholesale Business
 Zoo

D. Area Standards

Multiple – Dwelling units shall meet the following standards:

Minimum Lot Size(Base + Sq. Ft. per unit)	87,120+10,000
Minimum Lot Width (Base + Ft. per unit)	150+15
Minimum Lot Coverage (% of lot area)	40
Minimum Front Yard (Measured from middle of road in feet)	75
Minimum Rear Yard (Ft.)	20
Minimum Side Yard (Ft.)	20
Minimum Floor Space (Each unit)	600
Minimum Manufactured home size (Utilize Manufactures Advertised Size)	720

Commercial Occupancies -

Minimum Lot Size (Square feet)	15,000
Minimum Lot Width (feet)	100
Maximum Lot Cover (% of Lot Area)	60%
Minimum Front Yard (measured from right-of-way)	25
Minimum Rear Yard	20
Minimum Side Yard	15
Maximum Stories	2 ½

Industrial and Manufacturing Occupancies -

Minimum Lot Size (Acres)	5
Minimum Lot Cover (% of Lot Area)	20%
Minimum Lot Frontage along Road (feet)	300
Minimum Setback from right-of-way	100
Minimum Rear Yard (feet)	100
Minimum Side Yard (feet)	100
Maximum Stories	2 ½

E. Standards of Performance in C-I Districts

(1) Noise. All uses shall comply with the standards set forth in the Town of Charlotte Local Law #2 of 2000.

(2) Odor. No person shall permit the emission of any odor that is unreasonably offensive.

(3) Dust and Dirt. No person shall permit or cause the escape of such quantities of soot, cinders or fly ash as to exceed 0.3 grains per cubic foot of the flue gases when measured at the top of the stack. Other kinds of dust, dirt and other particulate matter shall not be in excess of 3.0 grains per cubic foot of air as measured at the top of the stack and corrected to standard conditions.

(4) Parking and Driveways. There shall be no off-site parking of motor vehicles. Each land user subject to this Article must provide sufficient, suitable, on-site parking spaces and prevent parking in all designated yard areas. However, when any yard sides on land that allows residential development, the drives or traffic access facilities must be placed as far from the exterior line as practical. No parking shall take place in any required yard area.

(5) Vibration. No person shall permit or cause, as a result of normal operations, a vibration which creates a displacement of plus or minus 0.003 on one inch as measured at the edge of manufacturing district.

(6) Noxious gases. No person shall permit the escape of such quantities of noxious acids, fumes or gases in such manner and concentration as to endanger the health, comfort or safety of any person or to cause injury or damage to property, business

or vegetation, or which causes any excessive soiling at any point beyond the property line.

(7) Glare. No person shall carry on a process that creates of sky-reflected glare, whether from floodlights or from high temperature process such as combustion or welding or other such process, is unreasonably offensive when visible outside the manufacturing district. No lighting of signs or buildings shall be allowed unless it is of such low intensity or brilliance that it does not cause glare or impair the vision of the driver of any motor vehicle.

(8) Fire and safety hazards. All buildings, operations, storage, waste disposal, etc., shall be in accordance with the applicable provisions of the latest published edition of the New York State Uniform Fire Prevention and Building Codes.

All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazards of fire and explosions and adequate fire-fighting and fire-suppression equipment and devices.

(9) Open Storage. No person shall permit the open storage of more than incidental quantities of any materials derived from the given industrial operation without screening, such as a fence, hedge or other barrier, at least seven (7) feet high, that obscures storage to persons passing in a normal manner from a public way or from any property line facing a public right of way. The following is a list of materials requiring screening:

- New materials
- Component parts
- Work in progress
- Finished products
- Scrap or waste material

The location of said screening shall be subject to the front, side and rear yard restrictions provided, however, natural barrier screening, decorative planting, etc., shall not be subject to these restrictions.

(10) Landscaping. A planted visual barrier may be required to be maintained in yard areas that abut land upon which residential structures exist or are permitted at the time of the special use permit application except when natural or physical man-made barriers exist. This planting barrier or visual screen shall have a width of no less than three feet. It shall be of such plant materials that within a reasonable period of time (five years) the vegetation barrier will provide a high degree of separation and privacy on a year round basis.

SECTION 403

Flood Plain (FP)

A. Purpose – Certain areas of the Town of Charlotte have been identified by the Federal Insurance Administration as susceptible to flooding. These areas are identified on a Flood Insurance Rate Map filed in the Town Clerk’s Office. Town of Charlotte Local Law No. 2 of 1987 entitled Flood Damage Prevention is incorporated by reference into this Zoning Law and given full force and effect.

**ARTICLE V
GENERAL PROVISIONS**

SECTION 501 Visibility at Intersections

For the purpose of maintaining sight lines and promoting traffic safety, on a corner lot in any district, no fence, wall, hedge, or other structure or planting more than 3 feet in height shall be erected or placed within the triangular areas formed by the intersecting street edge lines and the imaginary straight line down between the points of 50 feet from the intersecting street edge lines along the street edge lines.

SECTION 502 Interpretation of Permitted Uses

When a use is not specifically listed as a “Use by Right,” “Use Requiring No Permit.” Or a “Use by Special Use Permit” within any zoning district, it shall be assumed to be a prohibited use unless it is determined in a written decision by the Board of Appeals that said use is similar to permitted uses and is not inherently a nuisance in the Town of Charlotte. See Section of Variance also.

SECTION 503 Agriculture

A. Agricultural Preservation – In order to promote, preserve and protect agricultural business, any portion of the Law that would reduce operational capability of an agricultural business shall be declared void in that one instance. However, where a documented health or safety problem exists or would be created if sections of this Law are not adhered to, then, and only then, will these sections be enforced, but then only to the minimum necessary.

B. Interpretation – It shall be the duty of the Zoning Board of Appeals to interpret when a “loss of operational capability” exists, due to a particular section of the Zoning Law.

C. State Law – Note that State Agriculture & Markets Laws may also apply where a State Agriculture District exists and that State Law could supersede this Local Law.

SECTION 504 Erosion and Sediment Control

A. Purpose -

- (1) To reduce the erosion potential from a development or construction project.
- (2) To decrease non-point source pollution and water quality degradation.

B. Guidelines -

- (1) Existing vegetation on a development project site should be retained and protected as much as possible to minimize soil loss on the project site and to minimize erosion control costs.

(2) Sediment control practices and measures are to be taken, where necessary, to protect the natural character of rivers, streams, lakes, or other water bodies on or near the site, and to minimize erosion and sedimentation off-site. These measures shall be taken from the start of land disturbance activities and continue to the establishment of permanent stabilization.

(3) Natural drainage channels should not be altered or relocated without proper approvals.

(4) A fill associated with an approved temporary sediment control structure, or permanent storm water management structure, should not be created which causes water to pond off-site on adjacent property, without first having obtained ownership or a permanent easement for such use from the owner of the off-site or adjacent property.

(5) Runoff from any land-disturbing activity should not be discharged, or have the potential to be discharged, off-site or into storm drains or into watercourses, unless such discharge is directed through a properly designated, installed and maintained structure, such as a sediment trap, to retain sediment on-site.

(6) Surface flows over cut and fill slopes should be controlled.

(7) Slopes, and basin or trap embankments should, upon completion, be immediately stabilized with sod, seed and anchored straw mulch, or other approved stabilizer measures. Maintenance should be performed as necessary to ensure continued stabilization.

(8) The release of storm water runoff from development should not exceed pre-development conditions.

(9) The property owner shall comply with Federal Law as well as New York State Department of Environmental Conservation regulations, permits, and storm water runoff prevention plan that apply to any construction project that disturbs one or more acres of land.

SECTION 505

Site Plan Review

A. Intent – The intent and purpose of a site plan review are to evaluate specified land uses in terms of their suitability to natural site conditions, their compatibility with surrounding land uses and their conformance with overall plans for the community, thus minimizing possible adverse effects on the health, safety and welfare of local residents. The following uses are subject to site plan review: all uses requiring the issuance of a building permit in any district, except for one- or two-family dwellings and related accessory uses or a general farming use., shall require the preparation of a site plan.

The Code Enforcement Officer shall refer the site plan to the Zoning Board of Appeals for its review and approval in accordance with the standards and procedures set forth in this article.

B. Statutory Authority – The power to approve, approve with conditions or deny site plans for specified uses as required by this chapter is vested in the Zoning Board of Appeals. Section 274-a of the Town Law provides the legislative authority for the Town Board to designate the Zoning Board of Appeals to review site plans. Prior to the issuance of a building permit for the construction of a specified use, the Code

Enforcement Officer shall refer the site plan and supporting documentation to the Zoning Board of Appeals for its review and approval in accordance with the standards and procedures set forth in this article. All site plans shall be prepared by a licensed architect or engineer unless specifically waived by the Zoning Board of Appeals. The waiver shall depend upon the complexity of the site and the structure(s) as related to the land use.

In reviewing an application for site plan approval, the Zoning Board of Appeals must find that the application meets the following criteria:

1. A harmonious relationship between such land use activity and uses located on adjacent lots and in adjacent zoning districts.
2. The safety of vehicular access and egress from the site to existing and proposed roads.
3. The effectiveness of on-site circulation and parking facilities with particular attention to pedestrian and vehicular safety.
4. The adequacy of landscaping and setbacks as a way of mitigating adverse environmental impacts and achieving compatibility with adjacent property.
5. An adequate solution to the question of surface water drainage and the provision of water and sewer services.
6. Compliance with rules and regulations of subdivision and any special requirements unique to a particular site or land use, as those might be specified by the Zoning Board of Appeals or listed in Article VI of this chapter.

C. Procedure

1. Pre-submission conference – Prior to the preparation of a site plan for presentation to the Zoning Board of Appeals in its final form, the applicant may prepare a sketch plan and meet informally with a member(s) of the Board or designee to consider the specifics of the proposed use or development, the character of the neighborhood, special features of the site and any environmental concerns. Such sketch plan should be submitted five calendar days prior to a Zoning Board of Appeals meeting, with sufficient information to enable a clear understanding of the proposal.

2. Final site plan

a. A final site plan shall be submitted to the Zoning Board of Appeals at least 21 calendar days prior to the meeting at which consideration of such plan is to be given if the plan has county implications. The plan shall contain the following information, as applicable:

1. Location, name and address of the owner; name of the plan designer and engineer (if any) working the proposed project.
2. Identification map showing the location of the site in the Town of Charlotte and relationship of the existing road system.
3. Scale, North arrow and date and present zoning and setback requirements.
4. Identification of property owners and existing land uses for all abutting sites and showing existing property lines, rights-of-way and easements.

5. Existing and proposed buildings, including the approximate location of parking on and access to the proposed site and to abutting properties. Common drives on property lines are encouraged.

6. The location of all wetlands and land located in the one-hundred-year floodplain.

7. Indication of existing and proposed topography and drainage systems for the site. When this is a consideration due to topography or low land, a topographic survey and drainage plan may be required by the Zoning Board of Appeals before action is taken.

8. Any engineering drawings or documentation that may be required for utility hookups, septic tank installations or public improvements.

9. Proposed landscaping treatment including, size, number, and approximate location of plantings.

10. Drawings or sketches that illustrate the height, bulk and design characteristics of any proposed buildings in District shall indicate exterior color and primary materials to be used, for information purposes only.

11. Narrative description of how the proposed building, land use or site design will fit into the surrounding neighborhood.

12. Sketches indicating the location, size and design of any sign or site lighting to be used on the proposed site.

13. Any other information that may be reasonably required by the Zoning Board of Appeals to explain proposal.

b. Any of the above final plat requirements may be waived or modified by the Zoning Board of Appeals when conditions warrant. Documentation of such waivers shall be included, in writing, in the records of the application.

D. Zoning Board of Appeals Review – The Zoning Board of Appeals shall review the application, in accordance with the procedures required by New York State Town Law provisions, to determine the compliance of the plans with the requirements set forth in this Section.

E. Standards for Approval of Site Plans

1. In reviewing the applications for approval of site plans, the Zoning Board of Appeals will be guided by the existing characteristics and conditions of the site and its surroundings and the particular requirements of the applicant. Elements of concern will include but not limited to the following:

a. Movement of vehicles and people
b. Public safety and the adequacy of public utilities services needed at the site.

c. Off-street parking and the access and egress thereto, including the adequacy of existing roads to serve the proposed project.

a. Lot size, density, setbacks, building size, coverage and height.

b. Site drainage, landscaping, buffering, views or visual character.

c. Signs and site lighting.

SECTION 508

Corner Lots

Both street sides of a corner lot shall be treated as front yards in the application of bulk and area requirements.

SECTION 509

Existing Substandard Sized Lots

The minimum area requirements specified for each type of allowed use shall not prevent the construction of an allowable use on a substandard sized lot which existed and was officially recorded at the time of enactment of this zoning law if the following conditions are met:

- A. The substandard lot is not less than seventy-five (75) percent of all applicable standards and,
- B. The County Health Department approves the lot.
- C. If (A) cannot be met but (B) has been accomplished, then the applicant can request an Area Variance from the Zoning Board of Appeals (see Variances – Section 904).

SECTION 510

Fences & Walls

Fences and walls shall be allowed in accordance with the following conditions:

A. Height – Except as otherwise provided in this Zoning Law, fences, or walls shall be permitted in any district, but not to exceed the following heights: Seven feet where located anywhere behind the front wall of the principal building; four feet in front of the front wall, and subject to conformance with Article V, Section 501, Visibility at intersections.

B. Location and standards – In all cases fences, hedges and wall shall be located on or within the property and must be setback a minimum of two feet from the property line. The finished side of the fence or wall must face closest neighboring property. The fence or wall shall be fixed permanently in the ground to insure its stability.

C. Fire Hazard – Any fence or wall which may cause a fire hazard or a dangerous condition shall be prohibited. This does not include customary farm fencing used for limited agricultural activities.

D. Maintenance – All fences will be maintained in such a manner that they will not devalue adjacent properties or cause unsafe conditions. Fences shall be both structurally and visually maintained.

E. Screening – Any Use which is adjacent to a residential district and is deemed to be offensive to existing or allowed residential uses shall be buffered by either a solid fence, hedge, or other appropriate method as determined by the Zoning Board of Appeals.

SECTION 511

Maintaining Lot Areas

A. Maintenance of yards, courts, and other open spaces – the maintenance of yards, courts, and other open spaces and the minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, courts, other open spaces, or minimum lot area located to any building shall, by virtue of change of ownership or for any other reason be used to satisfy yard, court, other open space, or minimum lot requirements for any other building.

B. Division of Zoning Lots – No zoning lot improved with a building or buildings shall hereafter be divided into two (2) or more zoning lots and no portion of any zoning lot which is improved with a building or buildings shall be sold, unless all zoning lots resulting from each such division or sale improve with a building or buildings shall not be less conforming to all the building regulations of the zoning district in which the property is located.

C. Location of Required Open Spaces – All yards, courts, and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.

D. Required Yards for Existing Buildings – No yards now or hereafter provided for a building existing on the effective date of this Local Law shall subsequently be reduced below 8 feet to the adjoining lot line unless granted permission by the Zoning Board of Appeals pursuant to an Area Variance application.

SECTION 512

Established Front Yards

In an existing neighborhood where structures are not setback from the right-of-way, the distances specified by this law, it shall be determined by the Building Inspector what appropriate setback will be permitted by new construction or by alterations to existing structures in order to aesthetically blend with existing adjacent structures. The varied setback will be based on the average of the setbacks of the two adjacent structures minus up to five (5) feet. Any variation requested which is in greater variation than that permitted by this rule will require an Area Variance.

**ARTICLE VI
SUPPLEMENTAL REGULATIONS**

SECTION 601 – DEVELOPMENTAL CONDITIONS

A. Purpose – The checklist which follows shall be considered by the appropriate administrators/boards in their review of requests from Building Permits, Special Use Permits and Variances in order to reduce or eliminate problem areas of concern may be attached to Permits/Variances in order to reduce or eliminate problem areas or conflicts between incompatible uses, and generally to reduce health, safety or general welfare related problems. This checklist is not all inclusive and other related conditions may be imposed where reasonable and necessary and in accordance with this Zoning Law.

B. Areas of Concern

1. Traffic Safety – ingress/egress from roadway, building setbacks, corner visibility, off street parking, off street loading.
2. Safety – trash disposal, steep slopes, open pits, toxic or flammable fluids.
3. Health – sewers/water, sunlight, air movement, junk vehicles and trash storage.
4. Character of Neighborhood – development density, traffic volume, lot sizes, compatible uses, buffers.
5. Public Costs – road damage, need for new roads, need for new utilities.
6. Environmental Protection – flood plain, wetlands, erosion, natural features.
7. Nuisances, noise, odor, dust, lights, hours of operation, lot size, buffers, nuisance location.
8. Land Use Preservation – open space unique features.
9. Aesthetics – restoration, appearance, scenic views, buffers.

SECTION 602 Seasonal Camps

For the purpose of preserving rural character and providing protection for existing uses, a special use permit shall be required for a seasonal camp to be created.

Prior to the granting of the special use permit, the zoning board shall consider the following conditions:

1. Lot Size – A minimum lot size of 10 acres shall be required.
2. Structure Location – A minimum front, side and rear setback of 200 feet shall be required.
3. Construction – The type, size and method of construction shall be considered. If a manufactured home is to be used, it must meet floor space requirements of the district.
4. Buffer Zones – Existing natural buffers should be retained to the greatest degree possible and new buffers should be considered where it is apparent that they are necessary.

5. Year-Round Conversion – The conversion of seasonal camps to a year-round housing or any other allowed uses shall be allowed only by Special Use Permit.

6. Access to Public Road – Seasonal camps must have access to public streets in accordance with the section on “Access to Public Streets” or a 50 foot right-of-way shall be required.

SECTION 603 Mining Operations

A. Purpose – All mining operations, in addition to the regulations by the NYSDEC, shall be regulated by this section, the purpose being to limit the nuisances associated with mining operations and insure that residential neighborhoods are protected.

B. Conditions:

1. Equipment Location – No excavation, power-activated sorting machinery, equipment, blasting or stockpiling shall be allowed within 300 feet of any residential structures located on adjacent parcels unless permission to waive this requirement is received in writing from adjacent property owners. No power-activated sorting machinery or equipment shall be located within 600 feet of any public road or other property line. Unless permission to waive this requirement is received in writing from adjacent property owners.

2. Fencing – Fencing of all pits, excavations, etc., during and following cessation of operations until such time as reclamation is completed per state approved reclamation plan, may be required if an unsafe condition warrants such a fence as determined by the Code Enforcement Officer. The owner of the operation may appeal the Code Enforcement Officer’s decision to the Zoning Board of Appeals. When considering the appropriateness of fencing, the following shall be taken into consideration: neighborhood character, type of operation, size of lot, population in surrounding area, topography, traffic volume, etc.

3. State Requirements – In addition, all New York State Department of Environmental Conservation regulations on Mined Land Reclamation shall apply, covering the following areas:

a. State permit

b. Mining plan – affected land, procedures, disposition of materials, haulage ways, pollution prevention (dust, noise control, drainage, and water control), screening.

c. Reclamation plan – specific land-use objective for reclaimed land, disposition of materials, treatment of haulage ways, drainage, water impoundments, grading and slopes, screening, re-vegetation, schedule of implementation;

d. Reclamation bond – posted as determined by NYSDEC.

e. Hours of operation are not more than 7:00 a.m. to 7:00 p.m. (NO SUNDAYS OR HOLIDAYS).

SECTION 604

Regulation of Unregistered Vehicles and Unregistered Semi Trailers

A. Unregistered Vehicles:

1. Definition – This section will utilize the definition of an unregistered vehicle as set forth in the New York State Uniform Fire Prevention and Building Code.
2. In all Districts a maximum of one (1) unregistered vehicle shall be allowed to be maintained outdoors.
3. Unregistered vehicles shall be stored out of sight of adjacent properties and roadways to the greatest degree possible.
4. Two (2) unregistered vehicles shall constitute a junk yard. Junk yards are permitted within the town when properly licensed and when operated and maintained in conformity with the rules and regulations of Vehicle Dismantling Junk Yards.

B. Unregistered Semi Trailers:

1. Definition – A trailer or van which is unregistered and not in a condition for legal use on public highways.
2. No unregistered semi trailers or vans shall be permitted to be stored Outside for a period exceeding thirty (30) days of continuous use in a calendar year without a Special Use Permit.
3. Registered semi trailers or vans shall only be allowed to remain on a lot for thirty (30) days in a six (6) month period.

C. Intermodal Shipping Containers and Pods

1. Definition – A container or pod which is usually unregistered and may used in the shipment of materials by rail, sea or land.
2. Placement of a single shipping container or pod on a lot shall be permitted on a temporary basis for a continuous period of thirty (30) days for each calendar year. The placement of additional shipping containers or pods on that lot or the continued placement of a single shipping container or pod beyond thirty (30) days in a calendar year shall require a Special Use Permit.

SECTION 605

Vehicle Dismantling – Scrap Yards

A. Conditions – prior to the granting of a Special User Permit, assurances will be required that the following conditions, where appropriate, will be met:

1. Fences –
 - a. Vehicle dismantling and scrap yards shall be completely surrounded with a fence for screening and security purposes of at least 8 feet in height.
 - b. There shall be located a gate in the fence which shall be kept locked at all times except when the vehicle dismantling or scrap yard is in operation.
 - c. The fence shall be located a minimum of 125 feet from adjacent public highways.
 - d. All dismantling and work on the vehicles or scrap shall take place within the fenced area.
2. Location Considerations –

- a. Vehicle dismantling and scrap yards shall be allowed where there will be a minimum negative effect on the character of existing neighborhoods.
 - b. No vehicle dismantling or scrap yard shall be permitted within 500 feet of a church, school, public building or other place of public assembly.
 - c. Vehicle dismantling and scrap yards shall not be permitted to be located upon sloped areas where a 8 foot fence will not reasonable screen the contents.
3. Off-street Parking – Sufficient off-street parking shall be provided for customers.
4. Fire Safety –
- a. The Fire Inspector shall be notified prior to the granting of a Special Use Permit for a vehicle dismantling or scrap yard and be given 30 days within which to make recommendations.
 - b. Inside, adjacent to and contiguous with the fence, a strip of land at least 10 feet wide shall be kept clear of all dry grass or other growth or combustible material so as to provide a fire lane around the whole area.
 - c. There shall be maintained at least one fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and visible.
 - d. All vehicles and scrap shall be disassembled or dismantled by means other than burning. It shall be arranged in neat rows so as to permit easy, clear passage through the area.
5. Visual Considerations –
- a. There shall be no stacking of vehicles of scrap above 8 feet in height from the ground.
 - b. An appropriate buffer shall be established between adjacent properties.
6. Minimum Lot Size –
- a. Adequate acreage shall be available to handle present and future needs of proposed vehicle dismantling or scrap yards, with a minimum of three (3) acres being required.
7. Other Considerations –
- a. Suitable sanitary facilities shall be provided in accordance with State Health Laws.
 - b. Inspection of vehicle dismantling and scrap yards shall be allowed at any reasonable time to insure compliance with this and other laws.
 - c. Reasonable hours of operation may be specified.
 - d. Other reasonable conditions may be imposed as is deemed necessary.

SECTION 606

Trash Storage in Residential Yards

A. Quantity Allowed (New Trash)

- 1. Small dumpsters - Trash originating from the parcel on which it is placed may be stored in a dumpster with a capacity of up to 800 cubic feet provided the dumpster is screened from view by natural screening such as trees and shrubbery or fencing.

flood hazard shall be reviewed by the Board in accordance with applicable provisions of the site plan review section of these regulations.

b. The campground shall be located in areas where grades and soil conditions are suitable for location of recreational living units. The campground shall be located on a well-drained site which is properly graded to ensure proper drainage and be free at all times from stagnate pools of water.

c. These sites shall be at least two acres in size or as otherwise stipulated and have access to a public roadway.

3. Unit area – Each campground shall have defined and identifiable camping site areas. The total number of unit areas in such campground shall not exceed 10 per gross acre. Each unit area shall have a total area of not less than 3,000 square feet with a minimum dimension of 30 feet. Only one recreational living unit shall be permitted to occupy any one camp area. Two tents may be allowed per site, or one tent plus recreational living unit.

4. Improved unit area – Each designated lot shall have an improved area which will provide for the placement and removal of recreational living units and for the retention of each in a stable condition. This improved area shall be of sufficient size to accommodate the dimensions of all anticipated recreational living units, and shall be suitably graded to provide proper surface drainage.

5. Location of units – A recreation living unit shall be located at a minimum distance of:

a. Twenty-five feet from an adjacent unit, in any direction.

b. Twenty-five feet from an adjacent property line.

c. One hundred seventy-five feet from the edge of the pavement or improved surface area of a public roadway.

d. Twenty feet from the edge of any paved or improved surface area of any roadway within the campground.

6. Accessibility – Accessibility shall be as follows:

a. Each campground shall be easily accessible from an existing public roadway.

b. Location and number of points of entry and exit shall be approved by the Zoning Board of Appeals according to the terms under which the permit is authorized. Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the campground, and to minimize conflicts with the movement of traffic on the public roadway. Ease of access and egress and turning movements shall be considered in the design of the roadway system.

c. Each campground shall have approved roadways to provide convenient access to all camping unit areas and other important facilities within the site. In addition:

1. Internal roadways within a campground shall have minimum rights-of-way and improved surface are as follows:

a. One-way traffic movement.

i. Right-of-way: 20 feet.

ii. Surface or pavement width: 10 feet

b. Two-way traffic movement.

i. Right-of-way: 28 feet

ii. Surface or pavement width: 18 feet

2. All roadways shall be 15 feet for one-way roads and 20 feet for two-way roads, with six inches of rubble or gravel for drainage where necessary.

3. No parking shall be allowed on any roadway, and there shall be no dead-end roadways in any campground, except that a cul-de-sac or wye turnaround may be provided in accord with those provisions set forth in Chapter 150, Subdivision of Land.

4. Adequate access shall be provided to each improved camping site area.

7. Utilities and service facilities – All sewer, water and public accommodation facilities provided in any campground shall be in accordance with the regulations of the New York State Department of Environmental Conservation or Department of Health, as is applicable. In addition, the following utilities and service facilities shall be provided in each campground:

a. An adequate supply of pure water for drinking and domestic purposes shall be supplied.

b. Waste from all service buildings and individual lots shall be discharged into an approved public or private sewer system in compliance with the New York State Department of Environmental Conservation and New York State Department of Health, and in such a manner so as not to present a health hazard.

c. If other service buildings and facilities are to be provided, as deemed necessary for the normal operation of the campground, all such buildings shall be maintained in a sanitary and safe condition.

d. Refuse disposal shall be the responsibility of the operator of the campground and such refuse shall be disposed of daily, off site and in a covered can with a plastic bag liner at each site.

e. Where electrical connections or services are provided, they shall be weatherproof connections and outlets which are of a type approved by the New York State Uniform Fire Prevention and Building Code. Proposed electrical service shall be shown on the plan.

8. Recreation; open space area – Each campground shall provide common open space for the use of the occupants of such campgrounds. Such open space shall be conveniently located in the campground and shall constitute a minimum of 20% of the total campground area, such area to be designated on the site plan in such manner as to be an integral part of any proposed recreational campground.

9. Fireplaces; campfires – All fires in any campground shall be in a designated approved location with at least a stone or other fireproof enclosure demarcating the usable area from which all vegetative growth or other flammable material which might contribute to the accidental spread of the fire shall be removed.

10. After review of the proposed site by the Zoning Board of Appeals additional landscaping may be required if there is inadequate trees, shrubbery and other vegetation already present on the premises. This analysis will be done on a case by case basis with the understanding that additional landscaping may not always be required. The following provisions are to be considered by the Zoning Board of Appeals in addressing this issue:

a. Lawn and ground cover shall be provided on those areas not

used for the placement of individual recreational living units and other buildings, walkways, roads and parking areas.

b. Plantings shall be provided to the extent needed in order to screen objectionable views, provide adequate shade and to provide suitable settings for the recreations living units and other facilities. Views which shall be screened include laundry facilities, other nonresidential uses, refuse storage and collection areas, and in all abutting yards of adjacent properties.

c. Other planting shall be provided along those areas within the campground which front upon or are visible from existing public roadways so as to substantially screen the campground from public view at all seasons of the year.

11. Removal of wheels – It shall be unlawful to remove wheels from any recreational living unit or otherwise permanently affix such unit to the ground. Such removal shall be grounds for the revocation of the operating permit for such campground.

12. Length of Stay – No recreational living unit shall be permitted as an occupied unit to remain in the campground for an aggregate period of more than six months in any one calendar year.

13. Related requirements – Issuance of an operation permit hereunder for the use of the premises as a campground shall not be construed to eliminate the necessity of complying with all other applicable ordinances, resolutions, health regulations and other regulatory authorities or measures.

14. Parking Space – Off-site parking will be allowed at a ratio of one space for every five campsites.

15. Storage of recreational living units may be permitted on the campground in an area that does not allow occupancy by a registered guest of the campground. This area will not have any utilities or service facilities that will allow a recreational living unit to be occupied. A unit may be stored on the premises for no longer that 15 consecutive months.

B. Administration and Enforcement

1. Special use permit

a. Permit required – No recreational campground shall be established in the Town until a special use permit therefore has been issued by the Zoning Board of Appeals. All special use permits required under the provisions of these regulations shall be considered according to the following:

1. For the establishment of a recreation campground, the permit shall be authorized by the Zoning Board of Appeals in accordance with the conditional use process of these regulations; and

2. Any alteration or improvement of the site made shall meet the requirements.

b. Application – Plans and information shall be as required according to respective process called for above and set forth in Article V, Site Plan Review, which is part of these regulations, and such other information as may be necessary in the judgment of the Zoning Board of Appeals or other instrument of the Town to render a determination under and provide for the administration and enforcement of these regulations.

c. A site plan review/permit issued under these regulations shall be valid for a period of two years from the date of issuance.

SECTION 612

Gas compressors, Generators, and Related Equipment

A. Purpose – To promote the safety and general welfare of the public and to maintain the quality of neighborhoods by reducing continuous or frequent unreasonably loud noises associated with the operation of gas compressors, generators, and equipment connected thereto. The conditions specified in this section are to be enforced for all gas compressors, generators, and equipment connected thereto not already subject to New York State Law and regulations.

B. Administration -

1. Permit Requirement – A Special Use Permit shall be required for the placement of a gas compressor, generator, and all equipment connected thereto.

2. Pre-existing Gas Equipment – All gas compressors, generators, and equipment connected thereto in place or being placed on real property at the time of enactment of this section and for which a permit has not been issued by the Code Enforcement Officer shall be subject to the following specific conditions: C-1, Location, C-2, Noise Levels, C-3, Certification of Noise Levels, C-4, Buffers, C-5, Identification Signs, and C-6, Protective Fencing. Notification to comply must be given by the Code Enforcement Officer and compliance shall take place within 60 days after notification. A longer compliance period may be granted by the Permitting Officer after appropriate public hearing if the cost of the alterations are significantly high.

C. Conditions – All gas compressors, generators, and equipment connected thereto shall be located and designed such that noise associated with the use shall be mitigated to the standards set forth herein. It shall be unlawful for any person or firm owning or operating gas compressors, generators, and related motorized equipment to make, continue or cause to be made or continued any noise in excess of the standards specified herein. The following specific conditions shall be met:

1. Location – The equipment and appropriate mechanical silencing apparatus shall be appropriately located with consideration given to predominant wind direction, topography, location of dwelling units and other relevant physical factors, including ambient noise levels and natural acoustical buffers. The equipment shall be located on land owned or leased by the operator of the equipment and placed no closer than 500 feet (as a safety factor only) from any dwelling unit which is present on the date the permit is granted and all proposed residential construction for which a Building Permit has been received and substantial work has been completed within 1 year from the granting of the permit.

2. Noise Levels –

a. Decibel level (existing equipment) – The compressors, generators, and equipment connected thereto shall be designed, operated, and maintained by the owner or operator so that the sound level produced by the equipment does not exceed 40 decibels (A-weighted) (express as 40 dBA) sound level at the exterior of any presently existing residence and all proposed residential construction for which a

Building Permit has been received and substantial work has been completed within 1 year from the granting of the permit.

b. Decibel level (proposed equipment) – The compressor, generator, and equipment connected thereto shall be designed, operated and maintained with good engineering practices and shall not emit noise at a level exceeding 40 dBA at the distance from the compressor predicted by the inverse square law and atmospheric attenuation at standard conditions to yield 40 dBA when the criteria $(52 + 10 \log \text{HP})$ (dBA at 50 feet on-axis to the heat-exchanger fans) is involved.

c. The compressor, generator, and equipment connected thereto shall not be operated except for daytime testing until the owner or operator demonstrates that the compressor meets the performance standards expressed in Paragraphs C2a and C2b above. It is the responsibility of the owner or operator of the equipment to satisfy these standards.

d. The same standards of performance described in Paragraphs C2a above shall be required for any continuously operating power source and meeting this requirement shall be the responsibility of the owner and/or operator of the source.

3. Certification of Noise Level – Prior to being granted a permit for the placement of equipment, the owner or operator of the equipment proposed to be placed shall be responsible for verifying that the equipment and quieting devices (silencer, low speed fan, building, buffers, etc.) as proposed will meet the specified DB level requirements. An ambient noise study conducted by a qualified expert in acoustical engineering must be submitted in writing with the permit application for the ambient noise level of the location and at occupied dwelling units located in proximity thereto. Additionally, after placement of the equipment is completed along with the specified quieting devices, the same noise consultant must verify that the Decibel requirements are complied with.

4. Buffers – Where it is deemed necessary, either a natural or man-made acoustical buffer may be required for the purpose of minimizing the nuisances associated with the equipment. In extreme cases where no alternative is available, a fully enclosed and muffled structure may be required.

5. Identification Sign – Each piece of equipment shall be identified with a sign conspicuously placed at the intersection of the access road and the public highway, identifying the equipment, its location and the name of the person/company responsible for the unit and a 24 hour emergency telephone number.

6. Protective Fencing – All compressors, generators, and related equipment not surrounded by a building constructed to bring the equipment in compliance with the decibel levels herein specified shall be surrounded by a protective fence of suitable construction as a safety factor.

SECTION 613

Adult Entertainment Facilities

A. Purpose – It is the purpose of this section to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the Town of Charlotte, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town. The provision of this Law have neither the purpose nor effect of imposing a

limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Law to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this law to condone or legitimize the distribution of obscene materials.

B. Findings – Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Town Board and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini-Theaters*, 426 U.S. 50 (1976), *F.W./PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990), *Barnes v. Glen Theater, Inc.*, 511 U.S. 560 (1991); *City of Erie v. Pap’s A.M.*, 120 Supreme Court 1382 (2000), and on studies in other communities including, but not limited to Phoenix, Arizona; Minneapolis/St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; and St. Croix County, Wisconsin, the Town Board finds:

a) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operation of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

b) Certain employees of sexually oriented businesses defined in the law as adult theaters and adult cabarets engage in higher incidents of certain types of illicit sexual behavior than employees of other establishments.

c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, video, or live sex shows.

d) Offering and providing such space encourages such activities, which creates unhealthy conditions.

e) Person frequent certain adult theaters, adult arcades, and other sexually oriented businesses.

f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiosis, salmonella infections and shigella infections.

g) That here in Chautauqua County we have, in recent years, had an HIV-AIDS outbreak which has caused the County to become aware of the inherent problems.

h) The development and proliferation of adult entertainment facilities without regulations as to siting, concentrations and location may result in the deterioration of residential neighborhoods and business districts. In addition, if these types of businesses are located near schools, churches and/or others residing in the Town of Charlotte.

i) The findings noted in Subsections “a” through “h” raise substantial governmental concerns.

j) Sexually oriented businesses have operational characteristics, which should be reasonably regulated in order to protect those substantial governmental concerns.

C. Definitions -

ADULT BOOK/VIDEO/MEDIA STORE – An establishment having as its stock-in-trade, books, magazines, videos and other periodicals which are distinguished or relating to specified sexual activities or specified anatomical areas, as defined herein, or an establishment with a segment or section devoted to the sale and display of such material.

ADULT ENTERTAINMENT FACILITIES – Means and refers to “adult new-racks”, “adult book stores”, adult motion picture theaters, and “exotic cabarets”.

ADULT MOTION PICTURE/VIDEO THEATER – An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by persons within the use.

ADULT NEWS RACK – Any machine or device, whether coin operated or not, which dispenses material which is distinguished or characterized by emphasis depicting, describing or relating to the “specified sexual activities” or “specified anatomical areas” defined herein.

EXOTIC CABARET – A night club, bar or restaurant or similar commercial establishment which regularly features 1) persons who appear nude or semi-nude; or 2) live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities” or 3) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or specified anatomical areas”.

SPECIFIED SEXUAL ACTIVITIES – a) human genitals in a state of sexual stimulation or arousal; b) acts of human masturbation, sexual intercourse or sodomy; c) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.

SPECIFIED ANATOMICAL AREAS – a) less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the areola; b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

D. Location – The following provisions shall apply to the location of adult entertainment facilities: a) adult entertainment facilities shall be permitted only in the Commercial - Industrial District, as defined in the Zoning Law of the Town of Charlotte, upon approval of a special use permit; b) no adult entertainment facility shall be permitted within 500 feet of any lot with a residential use; c) no adult entertainment facilities shall be permitted within 1000 feet of any:

1. school,
 2. religious institution, or
 3. public park or public recreation facility;
- d) additional sign requirements – the following provision shall apply to signs erected or maintained in connection with adult entertainment facilities: a) no off-site signs shall be permitted.

E. Public Display of Certain Matter Prohibited – Materials offered for sale from “adult news-rack” shall not be displayed or exhibited in any manner which exposes to the public view any picture or illustration depicting any “specified sexual activity” or any “specified anatomical area”. Material offered for sale or viewing at any adult entertainment facility shall not be displayed or exhibited in a manner which exposes any depiction of “specified sexual activity” or “specified anatomical areas” to the view of persons outside the building or off the premises on which such store or theater or use is located.

F. Restrictions Cumulative in Nature – The restrictions set forth in this Law are in addition to any applicable provision of the Zoning Law of the Town of Charlotte. In the event of any conflict between any such provisions, the more restrictive provisions shall be applied.

SECTION 614 **Signs**

A. Temporary signs are allowed in all districts. Other signs are permitted only when accessory to use(s) permitted on premises in the district in which located.

B. Wherever located and whatever their nature, signs shall conform to the following regulation:

1) Construction, Maintenance and Removal – Every permitted sign must be constructed of durable material and maintained in good condition and repair. Should the Town of Charlotte Code Enforcement Officer, determine, following an inspection of the sign, that the sign is unsafe or insecure, or has been constructed, erected or is being maintained in violation of the Town of Charlotte Zoning Law, then the Code Enforcement Officer shall serve the permittee or the landowner with a written notice specifying the violation and defects. In the event the permittee or landowner fails to comply within thirty (30) days after receiving such notice, such sign may be removed or altered at the direction of the Code Enforcement Officer to comply with the provision of the Town of Charlotte Zoning Law at the expense of the permittee or landowner.

2) Electric Bulbs – No electrical bulbs shall be exposed unless satisfactorily shield from view by a globe or other visible barrier.

3) Ingress, Egress – No sign shall be erected or located as to prevent free ingress or egress from any window, door, or fire escape.

4) Light, Air – No sign shall be placed in such a position that it will obscure light or air from a building.

5) Attachments – No signs shall be permitted which are pasted, stapled, or otherwise attached to public utility poles or trees within the street right-of-way line.

6) Traffic – No sign shall be so erected or located that, by reason of its location, shape or color, or the color, shape or location of the lights used in conjunction therewith, such sign might interfere with traffic or be confused with or obstruct the view of effectiveness of any official traffic sign, traffic signal, or traffic marking.

7) Glare – Illuminating arrangements for signs shall be such that the light is concentrated upon such sign and that there shall be no glare cast upon the street, the sidewalk or adjacent property.

8) Flashing Sign – No sign shall be a flashing sign. Flashing signs shall be defined herein as meaning any sign that: flashes by giving off or reflecting light; or moves; or revolves in any way; or has flowing or moving lights or parts of the sign; or alternates in any way its color, shape or intensity of illumination.

9) Abutting Sign – No sign shall be placed to face of abutting residential district except when authorized by a variance.

10) Contrary to Zoning – No signs shall be erected containing information on it which states or implies that a property may be used for any purpose not permitted under the provisions of this Zoning Law.

11) Cessation – If a use ceases for a period of six (6) calendar months, signs must be removed. Such signs may be removed by the municipality at the expense of the owner or lessee of the property on which said sign is located.

12) Within Roads – No sign shall extend within a street or road right-of-way.

13) Setbacks, Yards – In matters of setback and required yards and other such respects free-standing signs larger than eight (8) square feet shall be regarded as buildings within the meaning of this Law.

14) Height – The top of no sign shall be more than forty (40) feet in height measured from the surface of the earth.

15) Building Signs – Signs attached to a building or buildings shall not project more than eighteen (18) inches from the wall upon which they are attached. Signs must be attached to parapet walls or other wall surfaces made a part of the main structure. Signs erected on a separate superstructure attached to the roof of the building or to any other part of the building above the roof shall not be permitted. No sign shall project higher than four (4) feet above the parapet line or the roof line, whichever is higher.

C. The following regulations apply to specific kinds of signs:

1) Temporary Sign – No real estate signs shall exceed six (6) square feet in area, with no more than two (2) such signs permitted use. Other signs shall not exceed twelve (12) square feet in area, and such signs shall be removed immediately upon the completion of work and the site or building on which the sign was erected shall be restored to its original condition upon removal of such signs.

2) Instructional Sign – Instructional signs may be represented by free standing signs or building signs each of which shall not exceed four (4) square feet in areas.

3) Identification and Business Signs – In commercial industrial districts, identification and business signs for each commercial parcel shall be limited to a total area of one hundred (100) square feet in size. No individual sign shall be greater than sixty-four (64) square feet in size. In all other districts identification and business signs shall be limited to a total area of thirty-two (32) square feet in size. In the case of corner lots maximum sign areas may be doubled.

D. The following signs shall be exempted from these regulations:

Directional, street, traffic, public safety, information or public service signs such as those advertising availability of rest rooms, telephone or similar public conveniences, and signs advertising meeting times and places or nonprofit service or charitable clubs or organizations, may be erected or maintained provided that such signs do not advertise any commercial or industrial establishment, activity, or organization.

E. A permit from the Code Enforcement Officer shall be required before a sign other than a temporary sign may be created, altered, or enlarged. A permit may not be issued by the Code Enforcement Officer unless all sign regulations in this Law are met. All requests for erection, alteration, or enlargement of any sign must be accompanied by a plan drawn to scale showing the exact size, shape, height, and dimensions of such sign and its proposed location or placement upon any structure or property.

F. Advertising Signs

1) Location – All advertising signs, as previously defined herein, shall be located in an overlay district as follows:

That an area immediately adjacent to New York State Route 60 extending 500 feet from the center line of the roadway to either side beginning at the southerly boundary of the Town of Charlotte where New York State Route 60 leaves the Town of Gerry and continuing to the westerly boundary of the Town of Charlotte where Route 60 crosses into the Town of Stockton.

2) Maximum number of display faces permitted on an advertising sign structure – An advertising sign structure may have a maximum number of two (2) display faces on each advertising sign structure where the display faces are situated back to back. No other orientation of display faces on an advertising sign structure are permitted.

3) Spacing and Setback – All advertising signs structures shall be separated by a minimum radius of one thousand (1,000) feet. All advertising sign structures shall be located at least forty (40) feet from the edge of the road right-of-way and no more than five hundred (500) feet distant from the edge of the road right-of-way. Side by side advertising sign structures are not allowed. Vertical stacking of display faces on a sign structure is not allowed.

4) Maximum number of display faces permitted in the overlay district – There will be a total of thirty-eight (38) advertising faces permitted within the aforescribed overlay district. This includes those advertising faces presently existing at the time of enactment of this Zoning Law.

5) Maximum number of advertising sign structures in the overlay district – There will be a total of nineteen (19) advertising sign structures allowed within the

aforedescribed overlay district. This includes those advertising sign structures presently existing at the time of enactment of this Zoning Law.

6) Size – The maximum display face shall be three hundred (300) square feet of surface area.

7) Non-conforming Advertising Sign Structures– Any non-conforming advertising sign structures will be allowed to continue to use in their present condition and size. Any non-conforming advertising sign structure which is removed from the position it occupied at the effective date of this amendment regardless of the reason and not restored within thirty (30) days shall be presumed abandoned and discontinued and may not be restored or re-erected except as provided for in the Town of Charlotte Zoning Law. Nothing herein shall be deemed to prevent maintaining a non-conforming advertising sign structure in good repair and safe condition.

8) Removal of Conforming Advertising Sign Structures – An advertising sign structure which is removed from the position it occupied at the time the permit was initially granted either by order of the Code Enforcement Officer, Court Order, or other public official or by voluntary actions taken by the permittee or landowner and not restored or re-erected at the original permitted location within thirty (30) days shall be presumed abandoned and discontinued and may not be restored or re-erected except as provided for in the Town of Charlotte Zoning Law.

9) Identifier – All Advertising Sign Structures shall have a conspicuous and easily read identifier that provides the name of the current sign owner, address and telephone number.

10) Advertising Bench – a bench for public use which is painted or otherwise covered with advertisement, or to which any sign is attached.

a. Advertising Benches shall only be permitted in the Commercial District and on the premise of an ongoing business.

b. A maximum of four (4) advertising benches shall be permitted at each business location and said benches must be situated entirely within the premises of the business.

c. It is required that advertising benches be affixed to building where practicable. If that is not possible then near the building but attached to the ground.

SECTION 615

Motorized Recreational Vehicle Outdoor Off-Road Track Standards

The Zoning Board of Appeals may approve a special use permit for a commercially operated motorized recreational vehicle outdoor off-road track, provided that the following criteria are met and maintained:

A. The applicant shall submit a site plan, prepared in accordance with this law and section 274-a of the New York State Town Law, of the property where the motorized recreational vehicle outdoor off-road track is to be located.

B. The applicant shall submit a written statement, which sets forth the details of the motorized vehicle off-road track operation.

C. The minimum lot size for a motorized recreation vehicle off-road track operation shall be ten acres, which shall be exclusive of any other portion of the site.

D. No portion of a motorized recreation vehicle off-road track operation shall be located closer than 350 feet to a property line.

E. No portion of a motorized recreational vehicle off-road track shall be allowed where the ambient noise level exceeds 65 decibels, when measured at the property line.

F. No motorized recreational vehicle off-road track shall be allowed to operate before 9:00 a.m. or after 7:00 p.m. Monday through Saturday. On Sunday, the hours of operation shall be limited to 11:00 a.m. to 7:00 p.m.

G. Access shall be provided for emergency vehicles to all portions of the motorized recreational vehicle off-road track by an approved route shown on the site plan.

H. There shall be no lighting permitted of a motorized recreational vehicle outdoor off-road track that does not meet the Town lighting standards contained elsewhere in this chapter.

I. Any alteration of the land shall be clearly shown on the site plan. Upon termination of the track, the land shall be returned to its previous condition within six months. A performance bond may be required by the Zoning Board of Appeals in an amount and format specified by the Zoning Board of Appeals to permit the reclamation of the land, and said performance bond shall be filed with the Town Clerk.

J. The term motorized recreational vehicle shall include trucks, automobiles, snowmobiles, motorcycles and all terrain vehicles.

K. The term track shall mean a repetitive circuit upon which the participants operate their vehicles in either a side by side straight dragway configuration or a closed loop of approximately one-half mile or less in circumference. The term track is not intended to apply to a course or a system of interconnected trails used by snowmobiles and off-road vehicles which cover large distances through fields and wooded areas even though such a trail or course may actually be a continuous loop.

L. The operation of motorized recreational vehicles in the Town of Charlotte is subject to the Town of Charlotte noise ordinance.

SECTION 616

Communication Towers

A. Purpose – The purpose of this section is to promote the health, safety and general welfare of the residents of the Town of Charlotte; to provide standard for the safe provision of communications consistent with applicable Federal and State regulations; to minimize the total number of communication towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from communication towers by requiring careful siting, visual impact assessment, and appropriate landscaping thereby protecting the natural features and aesthetic character of the Town of Charlotte.

B. Application of Special Use Regulation

1) No communication tower, except those approved prior to the effective date of this Section, shall be used unless in conformity with these regulations. No communication tower shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a communication tower unless in conformity with these regulations.

2) Applications proposing to co-locate on a previously approved communication tower do not require a Special Use Permit. They are, however, subject to Site Plan Review in accordance with Subsection J. The Zoning Board of Appeals (the Board) may require the applicant to submit any of the items under Subsection C(1) below as part of the Site Plan Review process.

C. Share Use of Existing Tall Structure

At all times, the shared use of existing tall structures (for example: municipal water towers, multi-story buildings, farm silos, etc.) and existing or approved towers shall be preferred to the construction of any new towers.

1) An applicant proposing to share use of an existing tall structure shall be required to submit:

(a) A completed application for Special Permit,

(b) Documentation of intent from the owner of the existing facility to allow shared use.

(c) A Site Plan. The site plan shall show all existing and proposed structures and improvements, including antennae, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for the new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.

(d) An engineer's report certifying that the proposed shared use will not diminish the structure, and explaining what modifications, if any, will be required in order to certify the above.

- (e) A completed Environmental Assessment Form and
- (f) A copy of its Federal Communications Commission (FCC) license.

2) If any applicant proposing to share use of an existing tall structure submits complete and satisfactory documentation in accordance with Subsection C(1) above, and if modifications indicated according to Subsection (1) are deemed insignificant by the Board, after the Board conducts a hearing and complies with all SEQRA provisions, the Board shall grant a special permit without further review under this section. If the Board determines that any modifications indicated according to Subsection C(1) are significant, it may require further review according to Subsections H through P below.

D. New Communication Tower

The Board may consider a new communication tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical. An applicant shall be required to present an adequate report with an inventory of all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Board in consultation with the applicant. The report shall outline opportunities for shared use of these facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. Written requests and responses for shared use shall be provided.

E. Share Usage of an Existing Tower Site for Placement of New Tower

Where share use of existing tall structures and existing or approved towers is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate new tower and accessory uses. Documentation and conditions shall be in accordance with Subsection D above. Any proposal for a new communication tower on an existing tower site shall be subject to the requirements of Subsections G through O below.

F. No Tower at New Location

The Board may consider a new communications tower on a site not previously developed with an existing tower when the applicant demonstrates that shared use of existing tall structures, and existing or approved towers is impractical and submits a report as described in Subsection D above; and when the Board determines that shared use of an existing tower site for a new tower is undesirable based upon the applicant's investigation in accordance with Subsection E. Any proposal for a new communication tower shall also be subject to the requirements of Subsections G through P below.

G. New Towers

Future Shared Use.

The applicant shall design a proposed new communications tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower and his/her successors in interests to negotiate in good faith for shared use of the proposed tower by other communications providers in the future. This letter shall be filed with the Code Enforcement Officer prior to issuance of a building permit. The letter shall commit the new tower owner and his/her successor in interest to:

- 1) Respond within 90 days to a request for information from a potential shared-use applicant.
- 2) Negotiate in good faith concerning future requests for shared use of the new tower by other communications providers.
- 3) Allow shared use of the new tower if another communications provider agrees in writing to pay reasonable charges. The charge may include but not limited to a pro-rata share of the cost of the site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the tower or equipment to accommodate shared use without causing electromagnetic interference.

H. Site Plan Review

The applicant shall submit the following:

- 1) An applicant shall be required to submit a site plan which shall show all existing and proposed structures including lighting and improvements including roads, buildings, towers, guy wires and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.
- 2) Supporting Documentation – The applicant shall submit a complete short Environmental Assessment Form, a complete Visual Assessment Form (visual EAF Addendum), and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower and justification for any clearing required. The applicant shall also submit a copy of its FCC license.

I. Lot Size and Setbacks

All proposed communication tower accessory structures shall be located on a single parcel and shall be setback from abutting parcels and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.

1) Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased the entire area required shall be leased from a single parcel unless the Board determines that this provision may be waived.

2) Communications Towers shall comply with all existing setback requirements of the underlying zoning district, or shall be located with a minimum setback from any property line equal to at least five hundred (500) feet or thirty percent (30%) of the height of the tower, whichever is greater. Accessory buildings shall comply with minimum setback requirements in the underlying zoning district.

J. Visual Impact Assessment

The Board may require the applicant to undertake a visual impact assessment which may include:

1) A Zone of Visibility Map shall be provided in order to determine the locations where the tower may be seen.

2) Pictorial representations of before and after view from any key view points both inside and outside of the Town, including but not limited to: state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Board shall determine the key sites at a pre-submission conference with the applicant.

3) Assessment of the alternative tower designs and color schemes, as described in Subsection K below.

K. New Tower Design

Alternate designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following:

1) Any new tower shall be designed to accommodate future shared use by other communications providers.

2) Unless specifically required by other regulations, a tower shall have a finish that minimizes its degree of visual impact.

3) The maximum height of any new tower shall not exceed that which shall permit operation with only that artificial lighting prescribed by state and/or federal law and/or regulations. The Board at its discretion may modify this requirement if the applicant can justify the need to exceed this height limitation.

4) No lighting shall be permitted unless required by the Federal Aviation

Administration. If tower lighting is necessary, the applicant shall fully disclose to the Board all lighting options. Only the minimal amount of tower lighting necessary to meet state and/or federal laws and/or regulations shall be authorized. Light pollution or light spillover to the nearby and distant properties shall be minimized to the greatest degree possible by use of shielding. The Board shall upon review approve only the lighting scheme that it determines to be least obtrusive to the affected properties.

5) The Board may request a review of the application by a qualified engineer or in order to evaluate the need for and the design of any new tower.

6) Accessory buildings will be non-habitable structures used in conjunction with a communication tower and located on the same lot as the tower. Said buildings shall maximize the used of building materials, colors and textures designed to blend with the natural surroundings.

7) A sign shall be conspicuously placed near the base of a tower and it shall generally state that danger exists and no access is permitted. No portion of any tower or accessory building shall be used for a sign other than as stated or for any other advertising purpose, including but not limited to: company name, phone numbers, banners and streamers.

L. Existing Vegetation

Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four (4) inches in diameter (measured at height four (4) feet off the ground) shall take place prior to the approval of a special permit.

M. Screening

Deciduous or evergreen trees planting may be required to screen portions of the tower and accessory buildings from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.

N. Access

Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private shall be made. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

O. Parking

Parking shall be provided to assure adequate emergency and service access. The Board shall determine the number or required spaces based upon a recommendation from the applicant. Two parking spaces shall be located in any required yard.

P. Fencing

The tower and any accessory building shall be adequately enclosed by a fence, design of which shall be approved by the Board. This requirement may be waived by the Board if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility.

Q. Inspections and Removal

Periodic inspections of all towers shall be required every five years. Inspections shall be conducted by a licensed engineer. Based on the results of an inspection, repair or removal of a tower may be required. Tower owners shall remove all towers and accessory building that are unused for a twelve month period. Tower owners shall immediately notify the Building Inspector of such nonuse. Removal shall be within six (6) months of written notification to the Town or written 90 days notification from the Town. Owners may request a Special Use Permit hearing to request an extension of time for removal for just cause. Failure to notify and/or remove an unused tower in accordance with these regulations shall be a violation.

R. Exemptions

- 1) Communication Towers may be repaired and maintained without restrictions.
- 2) Antennas used solely for residential household television and radio reception or transmission which do not exceed twenty-five (25) feet in height measured from ground level adjacent to the house.
- 3) Satellite antennas measuring six (6) feet or less in diameter.

SECTION 617 **Tire Dumps – Reserved (See Town of Charlotte Local Law #2 of 1985)**

SECTION 618 **Wind Energy Conversion Systems**

I. WIND ENERGY FACILITIES

A. Definitions – As used in Section 618 the following terms shall have the meanings indicated:

1. AGRICULTURAL OR FARM OPERATIONS – means the land and on-farm buildings, equipment, manure procession and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, including a commercial horse boarding

operation, as defined in New York Agriculture and Markets Law §301 and “timber processing,” as defined in subdivision fourteen of New York Agriculture and Markets Law §301. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

2. EAF – Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

3. PRIMARY STRUCTURE – A structure that one or more persons occupies for personal or business reasons. Primary structures include residences and commercial buildings

4. SEQRA - the New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

5. SOUND PRESSURE LEVEL – means the level which is equaled or exceeded a stated percentage of time. An L₁₀-50 dBA indicates that in any hour of the day 50 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes. The measurement of the sound pressure level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedures.

6. SMALL WIND ENERGY CONVERSIONS SYSTEM (“Small WECS”) – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

7. SITE – The parcel(s) of land where the Wind Energy Facility is to be placed. The Site could be publicly or privately owned by an individual or group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a Wind Energy Facility or has entered an agreement for said Facility or a setback agreement and received the required variance shall not be considered off-site.

8. TOTAL HEIGHT – The height of the tower and the furthest vertical extension of the WECS.

9. WIND ENERGY CONVERSION SYSTEM (“WECS”) – A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”).

10. WIND ENERGY FACILITY – Any Wind Energy Conversion System, including Small Wind Energy Conversion Systems, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads, and accessory structures.

11. WIND MEASUREMENT TOWER – A tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

12. WIND OVERLAY DISTRICT – A district which encompasses part or parts of one or more underlying districts and that establishes requirements for Wind Energy Facilities.

B. Permits and Rezoning Required

1. No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Charlotte except in compliance with this Article and shall require a Building Permit Application.

2. No WECS including Small WECS shall be constructed, reconstructed, modified, or operated in the Town of Charlotte except in a Wind Overlay District, pursuant to an application for rezoning and for special use permit approved pursuant to this Article.

3. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town of Charlotte except pursuant to a Special Use Permit issued pursuant to this Article, except for subdivision 8 of this Section.

4. Notwithstanding any other provision of this Zoning Local Law, Special Use Permits for Wind Energy Facilities shall be issued by the Zoning Board of Appeals.

5. Exemptions – A WECS utilized solely for agricultural operations in a state or county agricultural district, as long as the facility is set back at least one and a half times its Total Height from a property line, and does not exceed 120 feet in height. Towers over 120 feet in Total Height utilized solely for agricultural operations in a state or county agricultural district shall apply for a special use permit in accordance with this Local Law, but shall not require a height variance. Prior to the construction of a WECS under this exemption, the property owner or a designated agent shall submit a building permit application and comply with §505 Site Plan Review.

6. This Article shall apply to all areas of the Town of Charlotte.

7. Transfer – No transfer of any Wind Energy Facility or Special Use Permit, nor sale of the entity owning such facility including the sale of more than 30% of the stock of such entity (not counting sale of shares on a public exchange), will occur without prior approval of the Town, which approval shall be granted upon written acceptance of the transferee of the obligations of the transferor under this Article, and the transferee's demonstration, in the sole discretion of the Zoning Board of Appeals, that it can meet the technical and financial obligations of the transferor. No transfer shall eliminate the liability of the transferor nor any other party under this Article unless the entire interest of the transferor in all facilities in the Town is transferred and there are no outstanding obligations or violations.

8. Notwithstanding the requirements of this Article, replacement in kind or modification of an existing Wind Energy Facility may occur without Zoning Board of Appeals approval when (1) there will be no increase in Total Height; (2) no change in the location of the WECS; (3) no additional lighting or change in facility color; and (4) no increase in noise produced by the WECS.

C. Applicability

1. The requirements of this Article shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Article.

2. Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this Article, shall not be required to meet the requirements of this Article; provided, however, that

a. Any such preexisting Wind Energy Facility which does not provide energy for a continuous period of twelve months shall meet the requirements of this Article prior to recommencing production of energy.

b. No modification or alteration to an existing Wind Energy Facility shall be allowed without full compliance with this Article.

c. Any Wind Measurement Tower existing on the effective date of this Article shall be removed no later than twenty-four (24) months after said effective date, unless a Special Use Permit for said Wind Energy Facility is obtained.

3. Wind Energy Facilities may be either principal or accessory uses. A different existing use or an existing structure on the same Site shall not preclude the installation of a Wind Energy Facility or part of such facility on such Site. Wind Energy Facilities constructed and installed in accordance with this Article shall not be deemed expansions of a nonconforming use or structure.

D. Wind Overlay District Rules

1. Wind Overlay District may be created in the Agricultural-Residential (AR1) District.

2. Initial requests for Wind Overlay Districts shall be submitted with applications for WECS Special Use Permits. No Wind Overlay District may be initially created without specific requests for WECSs.

3. Once a Wind Overlay District has been created, new WECSs or accessory structures or facilities may be added in that District by grant of a Special Use Permit pursuant to the requirements of this Article.

E. Applications for Wind Energy Conversion Systems and Wind Overlay District

1. A joint application for creation of a Wind Overlay District and Special Use Permit for individual WECS shall include the following:

a. Name, address, and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the application authorizing the representation.

b. Name and address of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

c. Address, or other property identification, of each proposed tower location, including Tax Map section, block, and lot number.

d. A description of the project, including the number and maximum rated capacity of each WECS.

e. A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:

1. Property lines and physical dimensions of the Site.
2. Location, approximate dimensions, and types of major existing structures, including all residences, and uses on Site, public records, and adjoining properties within five hundred (500) feet of the boundaries of the proposed Wind Overlay District.
3. Location and elevation of each proposed WECS.
4. Location of all above ground utility lines on the Site or within a radius equal to the Total Height of the WECS, transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
5. Location and size of structures above 35 feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas, and slender or open lattice towers are not considered structures.
6. The zoning designation of the subject and adjacent properties as set forth on the official Town Zoning Map.
7. Proposed boundaries of the Wind Overlay District
8. To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to:
 - (i) One and a half times the tower height radius.
 - (ii) Five-hundred foot radius.
 - (iii) One-thousand foot radius.
9. Location of primary structures within one thousand two hundred feet of each proposed tower. The distance from the center of the tower to any primary structure within one thousand feet shall be noted.
10. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
 - f. Vertical drawing of the WECS showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and Total Height.
 - g. Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.
 - h. List of property owners, with their mailing addresses, within 500 feet of the boundaries of the proposed Wind Overlay District. The applicant may delay submitting this list until the Zoning Board of Appeals calls for a public hearing on the application.
 - i. Decommissioning Plan – The applicant shall submit a decommissioning plan, which shall include: 1) the anticipated life of the WECS; 2) the estimated decommissioning costs in current dollars; 3) how said estimate was determined; 4) the method of ensuring that funds will be available for decommissioning and restoration; 5)

the method, through re-estimates every five (5) years by a licensed engineer, that the decommissioning cost will be kept current; and 6) the manner in which the WECS will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner. The Plan shall include the Decommissioning Bond required by this Article.

j. Complaint Resolution – The application will include a complaint resolution process to address complaints from nearby residents. The process will utilize non-binding arbitration and include a time limit for acting on a complaint.

k. An application shall include information relating to the construction/installation of the wind energy conversion facility as follows:

1. A construction schedule describing commencement and completion dates; and

2. A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.

l. Completed Part 1 of the Full EAF.

m. Applications for Special Use Permits for Wind Measurement Towers subject to this Article may be jointly submitted with the WECS.

n. For each proposed WECS, include make, model, picture, and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants, and coolants.

o. If the applicant agrees in writing in the application that the proposed WECS may have a significant adverse impact on the environment, the Town Board of the Town of Charlotte shall issue a positive declaration of environmental significance.

p. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement ("DEIS") prepared for a Wind Energy Facility. Otherwise, the following studies shall be submitted with application:

1. Shadow Flicker – The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with primary structures and describe measures that shall be taken to eliminate or mitigate the problems.

2. Visual Impact – Applications shall include a visual impact study of the proposed WECS as installed, which may include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed Site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into project and that is intended to lessen the system's visual prominence.

3. A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed Wind Overlay District.

4. Noise Analysis – a noise analysis by a competent acoustical consultant documenting the noise levels associated with the proposed WECS. The study shall document noise levels at property lines and at the nearest residence not on the Site (if access to the nearest residence is not available, the Zoning Board of Appeals may modify this requirement). The noise analysis shall provide pre-existing ambient noise levels and include low frequency noise.

5. Property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of values of properties adjoining WECS Sites, including properties across public roads from the Site.

6. An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, and other wireless communication.

q. Written certification by a licensed professional engineer that the foundation and WECS design are within accepted professional standards, given all local conditions.

r. Tower design information sufficient to demonstrate compliance with wind-loading requirements.

s. Analysis of potential ice-throwing and damage from blade throw impacts.

t. A statement, signed under penalty of perjury, that the information contained in the application is true and accurate.

F. Application Review Process

1. Applicants may request a pre-application meeting with the Zoning Board of Appeals, or with any consultants retained by the Zoning Board of Appeals for application review.

2. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.

3. The Town or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application.

4. If the application is deemed incomplete, the Zoning Board of Appeals or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WECSs proposed is increased.

5. The applicant shall post the completed application and any accepted environmental impact statements on the Internet and continue the posting until such time as the Wind Overlay District is approved or disapproved. The application shall be referred to the Zoning Board of Appeals in accordance with this Local Law.

6. The Zoning Board of Appeals shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 500 feet of the boundaries of the proposed Wind Overlay District, and published in the

Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Zoning Board of Appeals to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Town, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

7. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.

8. Notice of the project shall also be given, when applicable, to (1) the Chautauqua County Planning Board, if required by General Municipal Law §§239-l and 239-m, and (2) to adjoining Towns under Town Law §264.

9. SEQRA Review – Applications for WECS are deemed Type I projects under SEQRA. The Town Board of the Town of Charlotte shall conduct its SEQRA review in conjunction with other agencies, and the record of review by said agencies shall be part of the record of the Town's proceedings. The Town Board of the Town of Charlotte may require an escrow agreement for the engineering and legal review of applications and any environmental impact statements before commencing its review. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Town Board of the Town of Charlotte shall issue a Statement of Findings, which Statement may also serve as the Town's decision on the applications.

10. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), and the report of the recommendation of the Zoning Board of Appeals (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Zoning Board of Appeals may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.

G. Standards for WECS

1. The following standards shall apply to all WECS and related infrastructure, unless specifically waived by the Zoning Board of Appeals as part of a permit.

a. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.

d. No television, radio, or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the telecommunications provisions of the Town Zoning Code. Applications may be jointly submitted for WECS and telecommunications facilities.

e. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.

f. Lighting of tower. Not tower shall be lit except to comply with FAA requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the Site plan. Security lighting shall be designed to minimize light pollution, including the use of light hoods, low glare fixtures, and directing lights at the ground.

g. All applicants shall use measures to reduce the visual impact of

WECSs to the extent possible. WECSs shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Individual WECSs within a Wind Overlay District shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the District, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No letter, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.

h. The use of guy wire is prohibited.

i. No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the Special Use Permit for the specific WECS or WECSs causing the interference.

j. All solid waste and hazardous waste and construct debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.

k. WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.

l. WECSs shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.

m. WECS and related infrastructure shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.

n. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations.

o. The maximum Total Height of any WECS shall be 500 feet.

p. Construction of the WECS shall be limited to the hours of 7 a.m. to 8 p.m. except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Zoning Board of Appeals.

q. Substations required to serve WECS are an Essential Public Service under this Zoning Code. Substations shall be screened from public view to the extent possible.

r. The Town of Charlotte shall be named as an additional insured under the general liability policy of the applicant, the amount of which insurance shall be no less than an amount to be determined by the Zoning Board of Appeals given the nature and scope of the project proposed by the applicant.

s. Any construction or ground disturbance involving agricultural land shall be done in accordance to NYS Department of Agriculture and Markets' publication titled Guidelines for Agricultural Mitigation for Wind Power Projects.

H. Required Safety Measures

1. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

2. If the property owner submits a written request that fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers. The color and type of fencing for each WECS installation shall be determined on the basis of individual applications as safety needs dictate.

3. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information, including a local telephone number with 24 hours, 7 day a week coverage. The Zoning Board of Appeals may require additional signs based on safety needs.

4. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole.

5. The minimum distance between the ground and any part of the rotor or blade system shall be twenty (20) feet.

6. WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.

7. Accurate maps of the underground facilities shall be filed with the
Town
Clerk and with “Dig Safely New York (1-800-962-7962)” or its successor.

I. Traffic Routes

1. Construction of WECS poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (1) minimizing traffic impacts from construction and delivery vehicles; (2) minimizing WECS related traffic during time of school bus activity; (3) minimizing wear and tear on local roads; (4) minimizing impacts on local business operations. Permit conditions may require remediation during construction, limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public, and all applicable state, county, and municipal highway authorities and superintendents whose roads are included in the WECS traffic routes plan. Notification to all applicable highway authorities and superintendents will include the number and type of vehicles and their size, their maximum gross weight, the number of round trips, and the dates and time periods of expected use of designated traffic routes.

2. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by

the Zoning Board of Appeals, sufficient to compensate the Town for any damage to local roads.

3. If the applicant uses any seasonal use highway in the off-season, it shall be solely responsible for the maintenance of said highway including but not limited to snow plowing. No act of maintenance on a seasonal use highway by an applicant shall be considered as Town maintenance of that highway for purposes of determining the seasonal use status of the highway.

J. Setbacks for Wind Energy Conversion Systems

1. The statistical sound pressure level generated by a WECS shall not exceed L₁₀₋₅₀ dBA measured at the closest exterior wall of any primary structure existing at the time of completing the SEQRA review of the application. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement. The sound pressure level measurement period shall be seven (7) days for a total continuous time period of one hundred sixty-eight (168) hours.

2. In the event audible noise due to WECS operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph 1) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.

3. In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project Site are sufficient to all Wind Turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.

4. Any noise level falling between two whole decibels shall be the lower of the two.

5. Each WECS shall be setback for Site boundaries, measured from the center of the WECS, a minimum distance of:

a. 500 feet from the nearest Site boundary property line, except the setback shall be 500 feet where the boundary is with state, county, town or village-owned property.

b. 500 feet from the nearest public road.

c. 1,000 feet from the nearest primary structure existing at the

time of application, measured from the foundation of primary structure.

d. 100 feet from the edge of state-identified wetlands. This distance may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, land uses, and other factors that influence the flight patterns of resident birds.

e. 500 feet from gas wells, unless waived in writing by the property owner.

f. 1,000 feet from any other WECS.

6. Other wind Energy Facility structures and improvements shall comply with the underlying zoning district regulations.

K. Noise, Height and Setback Easements; Variances

1. In the event the noise levels resulting from a WECS exceed the criteria established in this Article, or a setback requirement is not met, a waiver may be granted from such requirement by the Zoning Board of Appeals in the following circumstances:

a. Written consent from the affected property owners has been obtained stating that they are aware of the WECS and the noise and/or setback limitations imposed by this Article, and that they wish to be part of the Site as defined herein, and that consent is granted to (1) allow noise levels to exceed the maximum limits otherwise allowed or (2) allow setbacks less than required; and

b. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, shall be recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and may not be revoked without the consent of the Zoning Board of Appeals, which consent shall be granted upon either the completion of the decommissioning of the benefited WECS in accordance with this Article, or the acquisition of the burdened parcel by the owner of the benefited parcel or the WECS.

c. In any case where written consent is not obtained, a variance from the Zoning Board of Appeals shall be required.

L. Creation of Wind Overlay Districts and Issuance of Special Use Permits

1. Upon completion of the review process, the Zoning Board of Appeals shall, upon consideration of the standards in this Article and the record of the SEQRA review, issue a written decision setting forth the reasons for approval, conditions of approval, or disapproval.

2. If approved, the Zoning Board of Appeals will direct the Town Clerk to modify the Official Map to reflect the creation of the Wind Overlay Districts, and authorize Town staff to issue a Special Use Permit for each WECS upon satisfaction of all conditions for said Permit, and direct the building inspector to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and other conditions of this Article.

3. The decision of the Zoning Board of Appeals shall be filed within five days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.

4. If any approved WECS is not substantially commenced within two years of issuance of the permit, the special use permit shall expire.

M. Abatement

1. If any WECS remains non-functional or inoperative for a continuous period of 1 year the applicant agrees that, without any further action by the Zoning Board of Appeals, it shall remove said system at its own expense. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the applicant demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.

2. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA, or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the Zoning Board of Appeals all reports to and from the purchaser of energy from individual Wind Energy Conversion Systems, if requested necessary to prove the WECS is functioning, which reports may be redacted as necessary to protect proprietary information.

3. Decommissioning Bond or Fund – The applicant, or successors, shall continuously maintain a fund or bond payable to the Town for the removal of non-functional towers and appurtenant facilities in an amount to be determined by the Town for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York –licensed financial institution. All costs of the financial security shall be borne by the applicant.

N. Limitations on Approvals; Easements on Town Property

1. Nothing in this Article shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the Wind Energy Facility. Nothing in this Article shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

2. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Zoning Board of Appeals deems appropriate, as long as said agreements are not otherwise prohibited by state law or this Article.

O. Permit Revocation

1. Testing fund – A Special Use Permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years, or more frequently upon request of the Zoning Board of Appeals in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit and this Article and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Zoning Board of Appeals, to cure any deficiency. An extension of the 90 day period may be considered by the Zoning Board of Appeals, but the total period may not exceed 180 days.

2. Operation – A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Zoning Board of Appeals. The applicant shall have 90 days after written notice from the Zoning Board of Appeals, to cure any deficiency. An extension of the 90 day period may be considered by the Zoning Board of Appeals, but the total period may not exceed 180 days.

3. Notwithstanding any other abatement provision under this Article, and consistent with Sections M(1) and O(2), if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular timeframe, or (2) order revocation of the Special Use Permit for the WECS and require removal of the WECS within 90 days. If the WECS is not removed, the Zoning Board of Appeals shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

II. WIND MEASUREMENT TOWERS

A. Wind Site Assessment – The Zoning Board of Appeals acknowledges that prior to construction of a WECS, a wind Site assessment is conducted to determine the wind speeds and the feasibility of using particular Sites. Installation of Wind Measurement Towers, also known as anemometer (“Met”) towers, shall be permitted as Special Use in the Agricultural-Residential (AR1) Use District.

B. Applications for Wind Measurement Towers

1. An applicant for a Wind Measurement Tower shall include:

- a. Name, address, and telephone number of the property owner. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

- b. Name, address, and telephone number of the property owner. If the

property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

- c. Address of each proposed tower Site, including Tax Map section, block and lot number.
- d. Site plan
- e. Decommissioning Plan, based on the criteria in this Article for WECS, including a security bond or cash for removal.

C. Standards for Wind Measurement Towers

1. The distance between a Wind Measurement Tower and the property line shall be at least the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.

2. Special Use Permits for Wind Measurement Towers may be issued by the Zoning Board of Appeals for a period of up to two years. Permits may be renewed if the Facility is in compliance with the conditions of the Special Use Permit.

III. **SMALL WIND ENERGY CONVERSION SYSTEMS**

A. Purpose and Intent – The purpose of this Article is to provide for small wind energy conversion systems designed for on-site home, farm, and small commercial use, and that are primarily used to reduce on-site consumption of utility power. The intent of this Article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare.

B. Permitted Areas – Small Wind Energy Systems may be permitted in any zoning district upon issuance of a Special Use Permit.

C. Applications

- 1. Applications for Small WECS special use permits shall include:
 - a. Name, address, and telephone number of the applicant. If the applicant will be represented by an agent, the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
 - b. Name and address of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
 - c. Address of each proposed tower Site, including Tax Map section, block and lot number.
 - d. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.

e. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Electric Code.

f. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.

g. Written evidence that the electric utility service provider that serves the proposed Site has been informed of the applicant's intent to install an interconnected customer-owner electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.

h. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the systems' components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

D. Development Standards – All small wind energy systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Article that are not in conflict with the requirements contained in this section.

1. A system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application.

2. Only one small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one lot for purposes of this Article.

3. Small Wind energy systems may be used primarily to reduce the on-Site consumption of electricity.

4. Tower heights may be allowed as follows:

a. 65 feet or less on parcels between one and five acres.

b. 120 feet or less on parcels of five or more acres.

c. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11 of Title 14 of the Code of Federal Regulations regarding installations close to airports).

5. The maximum turbine power output is limited to 100 kW.

6. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

7. The systems shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible a small wind energy system:

a. Shall not project above the top of ridgelines.

b. If visible from public viewing areas, shall use natural landforms and existing vegetation for screening.

c. Shall be screened to the maximum extent feasible by natural

vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.

8. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

9. All on-site electrical wires associated with the system shall be installed underground except for “tie-ins” to a public utility company and public company transmission poles, towers and lines. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

10. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of this system.

11. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo, or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground, except that a system or tower’s manufacturer’s logo may be displayed on a system generator housing in an unobtrusive manner.

12. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

- a. Tower-climbing apparatus located no closer than 12 feet from the ground.
- b. A locked anti-climb device installed on the tower.
- c. A locked, protective fence at least six feet in height that encloses the tower.

13. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

14. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.

15. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250 foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

16. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.

17. All small wind energy systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

E. Standards – A Small Wind Energy System shall have the following standards:

1. Setback requirements – A Small WECS shall not be located closer to a property line than one and a half times the Total Height of the facility.

2. Noise – Except during short-term events including utility outages and severe wind storms, a Small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed 50 decibels (dBA), as measured at the closest neighboring inhabited dwelling.

F. Abandonment of Use

1. Small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Zoning Board of Appeals.

2. All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

IV. MISCELLANEOUS

A. Town of Charlotte Fee Schedule – The fees associated with establishing a wind overlay district, special use permits, wind measurement towers and renewals are set forth in the Town of Charlotte fee schedule. The status of these charges as refundable or nonrefundable is also determined in the fee schedule.

D. Building Permits

1. Town of Charlotte has determined that the review of building and electrical permits for wind energy facilities requires specific expertise for those facilities. Accordingly, the permit fees for such facilities shall reflect the increase in administrative cost plus the amount charged to the Town of Charlotte by any outside consultants employed by the Town of Charlotte to review the plans and inspect work. In the alternative, the Town of Charlotte and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town of Charlotte and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certification or conduct inspections as agreed by the parties.

2. The applicant shall prior to the receipt of the building permit demonstrate that the proposed facility meets the system reliability requirements of New York Independent System Operator, or provide proof that it has executed an interconnection agreement with the New York Independent System Operator and/or the applicable transmission owner.

E. Host Community Agreements – Nothing in this article shall be read as

limiting the ability of the Town of Charlotte to enter into host community agreements with any applicant to compensate the Town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineer and legal costs of any application review, including the review require by SEQRA.

F. The Amendment of Fees – The Town Board of the Town of Charlotte may amend the fee amount upon resolution after a properly noticed public hearing.

SECTION 619 Unsafe Buildings

The intent of this section is to promote and preserve a clean, wholesome, and attractive environment within the Town of Charlotte, which is declared to be of importance to the health, safety and welfare of residents and owners of property located within the Town of Charlotte, by providing a method of removal or repair of buildings or structures within the limits of the town that from any cause may now be or shall hereafter become dangerous or unsafe to the public. It is further declared that the unrestrained allowance of unsafe buildings and structures is a hazard to such health, safety and welfare of the inhabitants of said Town, necessitating the regulation and restraint and elimination thereof.

A. Unsafe buildings prohibited - No person, firm, corporation or association owning, possessing or controlling a building or structure in the Town of Charlotte, County of Chautauqua and State of New York, shall permit, suffer or allow said building now or hereafter to be or become dangerous or unsafe to the public from any cause whatsoever.

B. Unsafe structure and equipment – For the purposes of this section definition of unsafe structure and equipment as set forth in the New York State Uniform Fire Prevention and Building Code will be utilized.

C. Inspection, Notice and Order – In the event that this shall come to the attention of the Town Board that any building or structure in the Town of Charlotte may be dangerous or unsafe to the public, the Board shall direct the Code Enforcement Officer to inspect the alleged unsafe building. If the Town Board adopts the Zoning Enforcement Officer’s report as to an unsafe building or a dangerous building, then the Board shall cause notice to be served on the owner or some one (1) of the owners, executors, legal representative, agents, lessees or any other person having a vested or contingent interest in the same, either personally or by certified mail, addressed to the last known address of the owner or some one (1) of the owners, executors, legal representatives, agents, lessees, or some other person having a vested or contingent interest in the same, as shown by the records of the receiver of the taxes and/or in the office of the County Clerk, containing a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order requiring same to be made safe and secure or removed. The owner or his legal representatives shall commence said

repair or the removal of said building or structure within thirty (30) days of the service of notice, and complete the same within sixty (60) days of the service of notice.

D. Disregard of Notice; Survey – In the event of the neglect or refusal of the person served with the notice to fully comply with the same, a notice of survey shall be served upon such person, notifying such person that a survey of the premises will be made at the time and place specified in such notice by the Zoning Enforcement Officer and a practicing builder, engineer or architect to be named by the Town Board and designated in the notice. The notice shall also state that a practicing building, engineer or architect may also be appointed by the person served with the notice, and that in the event of refusal or neglect of said person so notified to appoint said builder, engineer or architect and to cause his attendance at the designated time and place, then the surveyor named by the Town shall make the survey and report. The notice shall also state that in the event the building or other structure shall be reported as unsafe or dangerous under such survey, then an application shall be made at a term of the Supreme Court in this judicial district for an order determining the building or structure or any party thereof to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.

E. Issuance of Search Warrant – In the event that person, firm, corporation or association owning, possessing or controlling a building or structure in the Town of Charlotte refuses to allow the appointed Code Enforcement Officer or surveyor as herein provided to make the inspection or survey, then the Code Enforcement Officer shall file an affidavit of the facts showing a probable violation of this chapter with the Town Justice, and if after examination of said Code Enforcement Officer, the Town Justice shall make a written finding that there appears to be a probable cause that there is a violation of this chapter which is creating a dangerous or unsafe building in the Town then the Town Justice shall issue a search warrant to the Code Enforcement Officer authorizing a search of the premises to determine if there is a violation of this section.

F. Standards for Repair, Vacation or Demolition – The following standards shall be followed in conducting the survey of the structure or building by the surveyors to determine the condition of the said structure or building:

1. If the dangerous building can reasonable be repaired so that it will no longer exist in violation of this section, it shall be ordered repaired.
2. If the dangerous building is in such condition as to make it dangerous to health, safety or general welfare of its occupants, it shall be ordered to be vacated.
3. In any case where a dangerous building is fifty percent damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building can not be repaired so that it will no longer exist in violation of the terms of this section, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of any law of the Town or statute of the State of New York, it shall be demolished within 60 days of notification of the unsafe condition.

G. Assessment of Costs and Expenses

1. All costs and expenses incurred by the Town in connection with the inspection, removing, demolition, repairing or vacating of any dangerous building or structure, as determined pursuant to this chapter, including surveyor's costs or fees, attorney's fees, advertising costs, title searches, costs of actually removing or securing said building or structure and all other expenses, shall when properly certified to and by the Board, be audited and paid by the Town the same as any other claim against the Town.

2. A bill for such expenses shall be presented to the owner or person notified pursuant to the foregoing sections of this chapter, or if the same cannot be so served or notified, then by posting the same in a conspicuous place on the premises.

3. If the owner shall fail to pay the same within ten (10) days thereafter, the Town Board shall file a certificate of the actual expenses incurred as aforesaid, together with a statement as to the property in connection with which expenses were incurred, with the Town Assessor, who shall, in the preparation of the next assessment roll of the general town taxes, assess such amount upon such property and against such building or structure and the lot or land upon which the same is situated, and said bill or amount so levied is to be collected and enforced in the same manner, by the same proceedings at the same time, have the same penalties and have the same lien effect upon such property as the general Town tax and as a part thereof.

H. Emergency Conditions – In cases of great emergency where the delay of the proceedings as herein before provided would result in probable loss of life or property, the Town Board shall have the power to proceed at once to take such action as is needed to guard the safety of person and property. In such cases, the Board shall have full power and authority to provide all necessary means therefore, and all expenses therefore shall be paid and collected as provided above.

SECTION 620 Construction, Excavation, Piling of Materials Near Lot Lines

A. Purpose – to prevent soil subsidence, erosion and/or interference with views on adjoining lots.

No individual shall be allowed to :

1. Build within fifteen (15) feet of a lot line.
2. Excavate soil to a depth of three (3) feet or more within fifteen (15) feet of a lot line.
3. Accumulate debris, earth, gravel, etc. in a pile exceeding three (3) cubic yards or more within fifteen feet of a lot line for a period of time exceeding thirty (30) days

SECTION 621

Auctions, Garage, Household and Lawn Sales

A. Private Auction, Household, Garage or Lawn sales including flea markets shall be limited to three weekends of three days each per year per property owner. More frequent private sales will require a Special Use Permit issued by the Zoning Board of Appeals.

B. Public and Non-Profit Organizations are exempt from the requirements of this section.

SECTION 622

Exotic Animals

A. Purpose – The purpose of this section is to promote the health, safety and general welfare of the residents of the Town of Charlotte by protecting them from disease or attack and possible injury caused by exotic animals as defined by the federal and New York State Law.

B. Regulations

1. Definition – the term “exotic animals” includes those animals defined in both Federal and New York State Law and Regulations and includes wolf and wolf-dog hybrids.

2. It shall be a violation of this law to possess an exotic animal in the Town of Charlotte whether as a pet or for exhibition purposes.

SECTION 623

Oil and Gas Wells

A. All oil or gas wells and gas and oil storage facilities which includes all oil and gas equipment such as above ground pipes, vent regulators, gauges, tanks, compressors and cogeneration equipment and shall be located in accordance with the following specifications:

Minimum Front Yard (Measured from Right-of-way in feet)	100
Minimum Rear Yard (feet)	75
Minimum Side Yard (feet)	50

They shall not be located within one hundred (100) feet of any existing dwelling or structure which is used to store farm products or house livestock or poultry; nearer than one hundred and fifty (150) feet from any public building or area which may be used as a place or resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic or occupancy by the public; nearer than one hundred seventy-five (175) feet to the traveled part of any state, county, township, or municipal road or any public street, road or highway; nearer than one hundred and fifty (150) feet from any public stream, river or other body of water.

B. In addition, all laws and regulations enforced by the Oil and Gas Division of the New York State Department of Conservation shall apply.

C. All sites shall be restored to a safe and aesthetically pleasing state within twelve months after completion of drilling.

D. A \$5,000.00 bond per well head may be required by the Town Board if deemed necessary.

E. The movement of heavy vehicles used in drilling operations during periods when town roadways are subject to heaving and break-up shall be coordinated with the Town Highway Superintendent. Drilling companies shall be responsible for damage which occurs to roadways due to the movement of heavy vehicles used in drilling operations.

F. The location of above ground pipes, regulators, gauges, tanks and other permanent equipment less than one hundred (100) feet of property line shall be accomplished by Special Use Permit with adjacent landowners being contacted.

SECTION 625

Small Scale Solar Energy Systems

A. PURPOSE – The provisions of this Section shall be interpreted as providing minimum requirements for small-scale solar energy systems adopted for the purpose of promoting the health, safety, morals and general welfare of this community.

B. INTENT – It is not intended by this Section to repeal, except as herein stated, abrogate or impair existing conditions previously made or permits previously issued relating to the use of building or premises or to impair or interfere with any easements, covenants or agreements existing between parties. Except as for otherwise provided herein, whenever this Section imposes a greater restriction upon the use of buildings or premises than is required by existing provisions of law, ordinance, regulations or permits or by such easements, covenants or agreements, the provisions of this Section shall control.

C. SOLAR ENERGY SYSTEMS

1. Installation of solar energy systems and equipment is encouraged on all preexisting structures; however, access to sunlight which is necessary therefore cannot be obtained through the provisions of this Section. The installation of a solar collector, whether attached to the main structure or as a detached accessory structure, shall require a building permit. Solar collectors are subject to the minimum setbacks, offsets and lot area coverage for whatever district in which they are proposed to be installed. Height limitations for solar collectors in the Agricultural Residential District shall be five feet above the level of the permitted building height. Height limitations in all other use districts shall be in accordance with the limitations for signs in each use district. All solar collectors and their associated support elements shall be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migrations of light or sound from the

installation and to minimize the development of sight obstructions for adjacent structures or land parcels.

2. Other alternative natural energy conservation devices shall be considered structures and shall require a building permit. All permit applications for such devices will be reviewed for compliance with applicable laws.

3. All solar energy systems located in the Agricultural Residential District are only permitted to contain solar collectors located on the rooftops of principal or accessory buildings. The solar collectors must be completely contained within the limits of the building roof. All other equipment and components of the solar energy system shall be located within the rear yard only and are subject to setbacks for accessory structures.

D. MORE RESTRICTIVE PROVISIONS TO PREVAIL

1. Whenever the regulations made by this Section require width or size of yards or courts or require a lower height of building or less number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than required in any other ordinance or regulation, the provisions of the regulations made by this Section shall govern.

2. Whenever the provisions of any other ordinance or regulation require a greater width or size of yards or courts or require a lower height of building or less number of stories or require a greater percentage of the lot to be left unoccupied or impose other higher standards than are required by regulations of this Section, the provision of such other ordinance or regulation shall govern.

ARTICLE VII
ADMINISTRATION BY CODE ENFORCEMENT OFFICER

SECTION 701 **Enforcement**

This Law shall be enforced by the Code Enforcement Officer who shall be appointed by the Town Board. No Building Permit shall be issued by him except where there is compliance with all provisions of this Law.

SECTION 702 **Duties**

It shall be the duty of the Code Enforcement Officer in connection with this Law to do the following:

- A. Permits – Issue Building Permits or refuse to issue the same and give the reasons for such refusal to the applicant in writing.
- B. Records – Keep a record of all applications for permits and record of all permits issued with a notation of all special conditions involved.
- C. Fees – Receive all required fees and deposit them with the Town Clerk.
- D. Coordination – Keep the Town Board and Zoning Board of Appeals informed and advised of all matters, other than routine matters in connection with this Law.
- E. Reports – Submit such reports as may be deemed necessary.
- F. Assist Applicants – Whenever possible to advise and assist person applying for Building Permits with the preparation of their applications.
- G. Violations – Assist in securing warrants and prosecution of violators of the provision of this Law.
- H. Notices – Serve all notices that may be required to be served in connection with this Law.
- I. Fire Inspector – Notify fire inspector of all permits issued.
- J. Amendment Recommendations – Make recommendations for keeping the Zoning Law and accompanying map up to date.
- K. Inspections – Inspect new construction or changes of use during and/or after construction or change in use to insure conformity with the provision of the Law and other applicable laws.

SECTION 703 – BUILDING PERMITS

A. No building, structure, or lot shall be erected, added to, structurally enlarged or changed to another use until a Building Permit has been issued by the Code Enforcement Officer. Excluded, however, from these Building Permit requirements are:

1. Interior modifications unless additional dwelling units or different types of uses are created.
2. Home repairs or improvements not involving additions or enlargement of floor space.
3. Additions of open porches, patios, decks or similar open structures.
4. Uses listed in the district regulations as allowed with no permit. When a project is excluded from the Building Permit requirement it is still subject to all applicable regulations of this Law.

B. Permit Contents – the application of Building Permit shall be made on a form obtained from the Code Enforcement Officer. The form shall, as a minimum, contain the following:

1. Applicant information – name, address, etc.
2. Property identification – street address and Section/Block/Lot.
3. Project description including purpose – proposed use.
4. Construction type – height, family units, lot dimension, setbacks, accessory buildings, etc.
5. Other information – copy of Health Department permit, location of wetlands, floodplains.
6. Signature of applicant.
7. Sketch drawn to approximate scale showing the lot size, setback, highways.

C. Commercial Permit Requirements – Compliance with Section 505 Site Plan Review is required as well as compliance with Site Plan Review provisions in each individual section.

D. Validity – Building Permits shall be valid for a 1-year period only. However, they may be extended for an additional 6-month period with the approval of the Code Enforcement Officer. Within 1 year from the date that the Building Permit is granted, the exterior of the structure shall be completed, and rough grading will be accomplished, and no new building materials will be stored outside. Upon expiration of the 1-year period, a new Building Permit will be required in order not to be in violation of the Zoning Law.

E. Notification of Adjacent Property Owners – The Code Enforcement Officer may attempt to notify adjacent property owners when request are filed for Building Permits on adjoining property, if, in the opinion of the Code Enforcement Officer, the proposed project is of such a nature to be controversial. Failure of such adjacent property owners to receive such notice, however, shall not be a basis for invalidating such a Building Permit, nor of contesting the actions of the Code Enforcement Officer, Board of

Appeals, Zoning Board of Appeals, or the Municipal Board in regard to the issuance or withholding of such permit.

F. Decisions – All decision by the Code Enforcement Officer to grant or deny a Building Permit shall be made in writing within 10 days from the time that the completed Building Permit form is submitted along with full payment of the required fee. The decision form shall, as a minimum, include a project description, location information, reference to section of the Zoning Law which would not be complied with and description of alternatives open to applicants who are turned down.

SECTION 704 **Schedule of Fees**

The applicant for a building permit, special use permit, or variance or other approval required by this law shall, at the time of making application, pay to the Town Clerk a fee in accordance with a fee schedule adopted by resolution of the Town Board of the Town of Charlotte upon the enactment of this law or as such fee schedule may be amended by resolution of the Town Board of the Town of Charlotte.

Any construction, use or installation that commences prior to obtaining a Building Permit may constitute a charge of double FEE for the permit that intended use.

SECTION 705 **Issuance of Appearance Tickets**

The Town of Charlotte Code Enforcement Officer shall have authority to issue an appearance ticket to persons for alleged Town of Charlotte Zoning Law Violations and New York State Building and Fire Code violations as provided under Criminal Procedure Law sections 150.10 and 150.70.

**ARTICLE VIII
NONCONFORMING USES**

SECTION 801 **Continuation**

The lawful use of any building or land existing at the time of the enactment of this law may be continued although such use does not conform with the provision of this Law.

SECTION 802 **Unsafe Structures**

Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

SECTION 803 **Alterations and Restoration**

A nonconforming building may not be structurally altered during its life to an extent exceeding in aggregate cost fifty (50) percent of the assessed full value of the building unless said building is changed to a conforming use.

All lawful nonconforming uses which are damaged or destroyed by fire or other causes may be repaired, rebuilt, or reestablished if a building permit is applied for within six (6) months after such damage or destruction, however, the nonconforming use shall not be increased or extended beyond the extent to which it existed on the effective date of this Law.

SECTION 804 **Prior Approved Construction**

Nothing herein contained shall require any change in plan, construction, or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit.

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SECTION 805 **Abandonment**

Whenever a nonconforming use has been voluntarily discontinued for a period of one (1) year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this Law.

SECTION 806 **District Changed**

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

SECTION 807

Nonconforming Manufactured Homes

Manufactured homes legally existing at the time this Law goes into effect shall continue to be allowed, even in districts where they are presently not to be allowed.

All non-conforming manufactured homes may be replaced with conforming manufactured homes (e.g., floor space requirements).

SECTION 808

Use Changes

Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

A legal nonconforming use may be changed to another nonconforming use which is of such a character so as to be less of a nuisance and more in conformance with the zoning law requirements. Once changed, the use would not be allowed to return to the original use. The Zoning Board of Appeals would make all determinations as to what new nonconforming uses would be allowable through the normal use variance procedure.

SECTION 809

Nonconforming Yard Changes

An allowed use which is not in conformance with yard requirements (e.g., setback, etc.) may be removed and replaced with another structure (same use) which is more in compliance with the yard requirements without going through area variance procedures. The Code Enforcement Officer shall determine the applicability of this Section to specific cases.

SECTION 810

Nonconforming Signs

See Article VI Section 614 Signs.

**ARTICLE IX
ZONING BOARD OF APPEALS**

SECTION 901 Creation

A Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) Town residents, to be appointed by the Town Board, and shall function in accordance with the enabling law. The Town Board's appointment of the initial Zoning Board of Appeals shall be as follows: one members terms shall expire at the end of the calendar year in which such members are initially appointed; one member's term shall expire at the end of the second calendar year from initial appointment; one member's term shall expire at the end of the third calendar year; one member's term shall expire at the end of the fourth calendar year; and one member's term shall expire at the end of the fifth calendar year for initial appointment. At the expiration of each original member's appointment, the replacement member shall be appointed for a full five-year term.

No person who is a member of the Town Board shall be eligible for membership on the Zoning Board of Appeals.

If a vacancy on the Zoning Board of Appeals shall occur otherwise than by expiration of term, the Town Board shall appoint a new member to fill the vacancy for the unexpired term.

The Town Board shall designate the chairperson of said Zoning Board of Appeals.

SECTION 902 General Procedures

A. Duties – The Zoning Board of Appeals shall act in strict accordance with procedures specified by law and by this Zoning Law. The major duties of the board shall be to hear and decide on variance requests as well as to interpret the meaning of the Zoning Law as requested and to consider Special Use Permit requests. The Zoning Board of Appeals will also be responsible for conducting site plan review and approval in accordance with Section 505 of this Zoning Law.

B. Format for Requests – All requests shall be in writing on forms prescribed by the Zoning Board of Appeals. Specific provisions of the Zoning Law shall be referred to and as a minimum, the following information shall be provided by the person requesting the variance/interpretation:

1. property identification;
2. project description;
3. sketch;
4. reasons for permit denial;
5. proof of unnecessary hardship or practical difficulties;
6. hearing information.

C. Referral to Town Board – At least fifteen (15) days before the date of the hearing required by law on the application or appeal to the Board of Appeals, the secretary of said Board may at their discretion transmit to the Town Board a copy of said

application or appeal, and the Town Board shall submit a report of such advisory opinion prior to the date of such hearing. Upon failure to submit such report, the Town Board shall be deemed to have approved the application or appeal. Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board of Appeals on the particular case.

D. Hearings – All hearing procedures shall be in accordance with appropriate laws with respect to notices, timeliness, etc.

E. Decisions – Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings. Every ruling, regulation, order, requirement, decision or determination of the Board of Appeals shall be immediately filed in the Office of the Town Clerk.

SECTION 903 Interpretation

The Zoning Board of Appeals shall have the power to interpret the meaning of this Zoning Law whenever called upon by the Municipal Board, Code Enforcement Officer or an aggrieved party who has been denied a Building Permit. This interpretive power shall include the determination of boundary lines.

SECTION 904 Use & Area Variances

A. Reasons for Variances – The Zoning Board of Appeals has the authority to vary or modify the strict letter of the Zoning Law where a literal interpretation would cause practical difficulties (Area Variances) or unnecessary hardships (Use Variance).

B. Applicability & Limitations – The Zoning Board of Appeals can decide appeals from a person who feels aggrieved by a decision of the Code Enforcement Officer. The Zoning Board of Appeals may reverse, affirm, or modify the decision made by the Code Enforcement Officer.

The Zoning Board of Appeals has absolutely no power to amend the Zoning Law and must exercise great care to insure that its rulings do not in effect amend the Zoning Law.

C. The Zoning Board of Appeals has the power to grant use variances according to the criteria of New York State Town Law §267-b(2), provided that the applicant demonstrates that the applicable zoning regulations cause unnecessary hardship as applied to the applicant's property. In order to prove unnecessary hardship the applicant must demonstrate that:

(a) under the applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in questions, which deprivation must be established by competent financial evidence;

(b) that the hardship relating to the property is unique, and does not apply to a substantial portion of the district or neighborhood;

(c) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(d) that the hardship has not been self-created.

The Board of Appeals, in the granting of use variances, is obliged to grant only the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant, and to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

D. The Zoning Board of Appeals has the power to grant area variances. In making its determination, the Zoning Board of Appeals must weigh the benefit (which will be accorded the applicant by the granting of the variance), against the detriment to the health, safety and welfare of the neighborhood or community. In making such determination the Board must 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 on the physical or environmental conditions in the neighborhood or district; and

(e) whether the difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in the granting of area variances, is obliged to grant only 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.

E. In granting any variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable. The decisions must be written in the form of a resolution and must state, in detail, the reasons for granting or denying the variance and the conditions imposed.

SECTION 905

Special Use Permits

A. General Provisions – The special uses listed in this Zoning Law for which conformance to additional standards are required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standard set forth herein, in addition to all other requirements of this Zoning Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

B. Standards – The location and sized of the use, the nature and intensity of the operations involved, the size of the site in relation to it, and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in

harmony with the orderly development of the district and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or lights, that would be the operations of any permitted use.

C. Conditions – In the granting of Special Use Permits, the Permitting Board shall attach such conditions and safeguards as it deems appropriate under this Law.

The Supplemental Section of this Law entitled General Conditions will be referred to and used as a checklist of possible conditions to be attached to the Special Use Permit being requested. It should not be assumed that this Section is all-inclusive..

A plan for the proposed development of a site for designated special use shall show the location of all buildings, lots, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that the Zoning Board of Appeals deems necessary.

D. Procedures – The Permitting Board shall act in strict accordance with procedure specified by law and by the Zoning Law with regard to public hearings, notices, publications, etc.

E. Expiration – A Special Use Permit shall be deemed to authorized only one particular use and shall expire if the special use shall cease for more than 1 year for any reason.

F. Existing Variations – No Special Use Permit shall be issued for a property where there is any existing violation of this Law.

SECTION 906 Mandatory Referral (General Municipal Law 239-1 & m)

A. Before issuing a Special Use Permit or granting a variance affecting any real property lying within a distance of 500 feet of the boundary of this Municipality or from the boundary of any existing or proposed county of state park or other recreation area, or from the right-of-way of an existing or proposed county or state parkway, thruway, expressway, road or highway or from the canal owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institute is situated, the matter shall be referred to the Chautauqua County Planning Board.

B. Within 30 days after receipt of a full statement of such referral matter, the Chautauqua County Planning Board to which referral is made, or an authorized agent of said agency shall report its recommendations thereon to the Board of Appeals, accompanied by a full statement of the reasons for such recommendations. If the Chautauqua County Planning Board fails to report within such a period of 30 days, the Board of Appeals may act without such report. If the Chautauqua County Planning Board disapproves the proposal, or recommends modification thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of

**ARTICLE X
VIOLATIONS AND PENALTIES**

SECTION 1001 Violations

Whenever a violation of this Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer, who shall properly record such complaint and immediately investigate. However, the Town Board shall be responsible for insuring compliance with this Law when it is brought to their attention that a violation may exist, even though no formal complaint is filed.

SECTION 1002 Penalties

Any violation of any provision of this Law by any person shall be punishable by fine not to exceed \$250.00 and /or six months in jail. Each week's continued violation shall constitute a separate additional violation.

**ARTICLE XI
LEGALITY**

SECTION 1101 Conflicts

In their interpretation and application, the provisions of this Law shall be held to be minimum requirement, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this Law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

SECTION 1102 Separability

The invalidity of any provisions of this Law shall not invalidate any other part thereof.

SECTION 1103 Repealer

The extension of the moratorium on Billboards enacted by the Town of Charlotte as Local Law No. 1 of 2008 and the moratorium on Wind Towers enacted by the Town of Charlotte as Local Law No. 2 of 2007 are hereby repealed and declared to be of no effect.

SECTION 1104 Effect

This Local Law shall take effect immediately upon filing with the Secretary of State.