

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one:)

of Great Valley, New York

Local Law No. 4 of the year 2015

A local law Amending Town of Great Valley Zoning Code, Comprehensive Plan and Zoning Map

(Insert Title)

Creating a Sand, Gravel, Topsoil and Clay Mining Overlay District

Be it enacted by the Great Valley Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one:)

of Great Valley as follows:

See attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2015 of the (County)(City)(Town)(Village) of Great Valley, New York was duly passed by the Great Valley Town Board on August 10 2015, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

*Toni Evans*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: Sept 14, 2015

(Seal)

Town of Great Valley, New York

Local Law No. 4 of the Year 2015

Amending Town of Great Valley Zoning Code, Comprehensive Plan and Zoning Map  
Creating a Sand, Gravel, Topsoil and Clay Mining Overlay District

August 10, 2015

The Great Valley Town Board hereby enacts as Local Law No. 4 of the Year 2015 the creation of a sand, gravel, topsoil and clay mining overlay district in the Town of Great Valley which includes amendment of Town Comprehensive Plan, Zoning Code and Zoning Map.

1. Legislative Intent

To create a sand, gravel topsoil and clay mining overlay district.

2. Amendments to Comprehensive Plan

a. Legislative Findings

New York Town Law § 272-a(11)(a) requires that “all town land use regulations must be in accordance with a comprehensive plan.” The Town of Great Valley Comprehensive Plan, Adopted December 10, 2007, states at 1.5 that the Comprehensive Plan should be reviewed approximately every ten years.

When adopted in 2007, the Comprehensive Plan recommended “that additional gravel mining should not be allowed in the Town of Great Valley” – see 9.3. This was predicated upon two findings:

- i. “There are currently five gravel mines in Great Valley that have been permitted by NYSDEC. This is considered to be the maximum level of gravel mining that is supportable for the area” – see 9.3; and
- ii. “Mining ... would adversely affect the potential for agricultural use of the property” – see 7-1.

Regarding the amount of mines as of 2015, there still are five NYSDEC permitted mines according to NYSDEC records, however, as the list at Exhibit A shows, there are only 103.60 acres left of mineable land, meaning that the amount of mineable land has been reduced significantly since 2007. This includes the Town’s gravel mine, which only has 5 acres of mineable land remaining. This means that when the Town’s gravel mine is depleted, the Town will have to purchase sand, gravel, topsoil and clay and costs

increase when there are no local sources due to trucking costs. Accordingly, the Comprehensive Plan should be amended to reflect these changes.

Regarding agricultural land, it is true that mining reduces agricultural land, however the same land ideal for agriculture is also ideal for mining. There does not seem to be a demand for agricultural land and some farms have ceased to be used as agricultural use. Also, while public policy favors agricultural, there is no public policy argument against mining. In fact, New York Environmental Conservation Law § 23-2703 stresses the importance of mining, by including the following New York State Public Policy Statement regarding the importance of mining:

The legislature hereby declares that it is the policy of this state to foster and encourage the development of an economically sound and stable mining industry, and the orderly development of domestic mineral resources and reserves necessary to assure satisfaction of economic needs compatible with sound environmental management practices.

In order to properly evaluate the balance of farming and agricultural land, it is recommended that the Comprehensive Plan be reviewed five years from enactment of this Local Law regarding this issue.

b. Amendments to Comprehensive Plan

The Comprehensive Plan shall be amended as follows (additions are in *italics*):

- i. Section 9.3 entitled "Development Policies" is hereby amended to add as the second paragraph of the Section entitled "Gravel Mining" as follows:

*Notwithstanding said inherent conflict, New York Environmental Conservation Law § 23-2703 stresses the importance of mining, by including the following New York State Public Policy Statement regarding the importance of mining:*

*The legislature hereby declares that it is the policy of this state to foster and encourage the development of an economically sound and stable mining industry, and the orderly development of domestic mineral resources and reserves necessary to assure satisfaction of economic needs compatible with sound environmental management practices.*

*It is the 2015 finding of the Town Board that permitted mining land has been depleted to approximately 103 acres in the Town. As mineable land is a plentiful resource in the Town and is needed for infrastructure and*

*construction projects, the Town Board has enacted a mining overlay district.*

*However, the concern about the inherent conflict between mining and agriculture still exists, therefore this provision of the Comprehensive Plan and the existence of the Mining Overlay District should be studied again in five years to ensure proper balance between mining and agriculture.*

- ii. Section 9.3 entitled "Development Policies" is hereby amended to change the existing second paragraph which shall become the new third paragraph of the Section entitled "Gravel Mining" as follows:

*In 2007, there were five gravel mines in Great Valley that have been permitted by the New York State Department of Environmental Conservation, however as of 2015, while there were still five permitted mines, the reserves of these mines had been depleted to approximately 103 acres. While the finding in 2007 was that the amount of permitted mining land was "the maximum level of gravel mining that is supportable for the area", the 2015 data shows a need for additional permitted mining land. However, the concern about too much permitted mining land still at any one time still exists, therefore this provision of the Comprehensive Plan and the existence of the Mining Overlay District should be studied again in five years to reexamine this concern.*

### 3. Content of Local Law

#### Local Law Creating Mining Overlay District Authorizing Sand, Gravel, Topsoil and Clay Mining

Sand, Gravel, Topsoil and Clay Mines are an expressly permitted use in the Mining Overlay District on properties pursuant to the attached list of properties where:

- a) a mining permit from the New York State Department of Environmental Conservation has been issued; and
- b) The Permit Holder agrees in its Mining Permit Conditions or by Declaration of Restrictions enforceable by the New York State Department of Environmental Conservation and/or the Town of Great Valley to reclaim concurrently to the maximum extent practicable.

4. When Effective

Following adoption, this Local Law shall take effect immediately upon filing with the Secretary of State as required by law.

5. Severability Provision

Should any part of this Local Law be held contrary to law, the remainder shall continue in full force and effect.

Town of Great Valley Mining Overlay District

<u>Address</u>	<u>SBL</u>	<u>Purported Owner</u>	<u>Acres</u>
4764 Us Rte 219	65.003-1-13.2	Gernatt Asphalt Products	25.1
Us Rte 219	65.003-1-14.1	Asphalt Products Gernatt	142.25
Us Rte 219	65.003-1-36.1	Asphalt Products Inc Gernatt, James R L/U Nannen	20.95
4884 Us Rte 219	65.003-1-36.4	Asphalt Gernatt	1.11
4826 Us Rte 219	65.003-1-6.9 (part of)	Pengilly Corp	1.11
4808 Us Rte 219	65.003-1-7.2	Pengilly Corp	31.35
Humphrey Rd	65.003-1-9	Town Of Great Valley	33.56
Us Rte 219	65.003-2-36.2	Asphalt Products Inc Gernatt, James R Nannen	21.1
4480 Us Rte 219	73.002-1-18.2	Asphalt Products Gernatt	20.05
Horton Rd	73.002-1-19	Jeremy P Romero	0.18
4532 Us Rte 219	73.002-1-23.1	Crowley Farms LLC	1.15
Horton Rd	73.002-1-23.2	Edward J Crowley, Andrea Crowley	70.7
Horton Rd	73.002-1-23.3	Cornelia M Ross, Laidlaw Mark Ross, Mary Spell	23.65
Us Rte 219	73.002-1-24	Bedrock Inc Attn: Peter Murdza	9.95
Us Rte 219	73.002-1-25.1	Crowley Farms LLC	212
Us Rte 219	73.002-1-25.2	Asphalt Products Gernatt	33.09
6589 McDonald Rd	73.002-1-26.1	Gernatt Asphalt Products	2
4364 Us Rte 219	73.002-1-26.2	Asphalt Products Gernatt	25.8
4282 Kill Buck Rd	73.002-1-27.1	James (Dec) Woodmancy, Eva Woodmancy	0.77
4317 Us Rte 219	73.002-1-32	Clair Conklin	28.1
4284 Us Rte 219	73.002-1-33	Stephen T Ginnitti, Amy L Ginnitti	43.51
4303 Us Rte 219	73.002-1-34	Michael A. Maroney	2.35
4343 S Whalen Rd	73.002-1-35	Valent Farms Llc	2.27
6899 Broi Road	73.002-1-36.1	Perkins Llc	63.33
4233 Us Rte 219	73.002-1-58.1	Joshua Clayson, Stacy M. Clayson	38.15
4221 Us Rte 219	73.002-2-2.1	Allan D Mendell, Cynthia A Mendell	32.9
Us Rte 219	73.002-2-2.2	Kevin McMillen, Jane McMillen	42.38
4203 Us Rte 219	73.002-2-2.3	Allan D Mendell, Cynthia A Mendell	1.3
4195 Us Rte 219	73.002-2-3	Georgie Patmore	15
Us Rte 219	73.002-2-38.1	Country Village Estates Llc	0.93
	73.002-2-38.2	Mendell's Car Wash Llc	24.62
			2.9



4109 Us Rte 219	73.002-2-39	Frederic Steiner, Marjorie Steiner	23.31
4211 Us Rte 219	73.002-2-4	McMillen, Vern R. McMillen, Ivan R. McMillen, Byron I.	1.95
4271 Us Rte 219	73.002-2-5	McMillen Victor A Malambri	2.85

STATE OF NEW YORK  
COUNTY OF CATTARAUGUS

I, the undersigned, hereby certify that I have compared the foregoing local law duly adopted by the Town Board of the Town of Great Valley on the 10<sup>th</sup> day of August, 2015 with the original thereof now on file in my office, and the same is a true and correct copy of said resolution and of the whole thereof.

Dated: Sept 14, 2015

Joni Evans  
Toni Evans  
Town Clerk, Town of Great Valley, New York

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF CATTARAUGUS

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Dated: 9-14-2015

Peter J Sorgi  
Peter J. Sorgi, Esq.  
Town Attorney, Town of Great Valley, New York