

## Chapter 128

### STREETS, HIGHWAYS AND SIDEWALKS

**[HISTORY: Adopted by the Town Board of the Town of Liberty 4-14-1993 by L.L. No. 3-1993. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Superintendent of Highways — See Ch. 15.  
Subdivision of land — See Ch. 130.  
Vehicles and traffic — See Ch. 139.

#### Part 1 Defects, Claims and Actions

##### ARTICLE I Notice of Defects

#### § 128-1. Defects in streets, highways, bridges or signs.

- A. No civil action shall be maintained against the Town of Liberty, hereinafter referred to as "the Town," or the Town Superintendent of Highways or against any improvement district in the Town for damages or injuries to person or property, including those arising from the operation of snowmobiles, sustained by reason of any street, highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the Town or any property, operated or maintained by any improvement district therein being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of such defective, unsafe, dangerous or obstructed condition of such street, highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the Town or any property owned, operated or maintained by any improvement district was actually given to the Town Clerk or the Town Superintendent of Highways and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction which is the subject of such notice.
- B. No such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any street, highway, bridge, culvert or any other property owned by the Town or any property owned by any improvement district in the Town unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or the Town Superintendent of Highways and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

#### § 128-2. Defects in sidewalks.

No civil action shall be maintained against the Town and/or the Town Highway Superintendent for damages or injuries to persons or property sustained by reason of any defect in the sidewalks

of the Town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town Highway Superintendent pursuant to statute, nor shall any action be maintained for damages or injuries to persons or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or the Town Highway Superintendent and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

**§ 128-3. Defects in other property.**

No civil action shall be maintained against the Town of Liberty or against any improvement district in the Town for damages or injuries to person or property sustained by reason of any property owned, operated or maintained by the Town of Liberty or any property owned, operated or maintained by any improvement district therein, being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of said defective, unsafe, dangerous or obstructed condition, specifying the particular place, was actually given to the Town Clerk of the Town of Liberty or the Town Superintendent of Highways and there is a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; but no action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any property owned, operated or maintained by the Town of Liberty or any property owned, operated or maintained by any improvement district therein unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town of Liberty or the Town Superintendent of Highways and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice. For purposes of this section, "property of the Town of Liberty or of any improvement district in the Town" shall include, but not be limited to, the interior and exterior of any building owned, operated, maintained or controlled by the Town of Liberty or any improvement district therein, parklands, historic sites, recreation areas, swimming pools, scenic sights, overlooks, garages, storage areas, any road, bridge or culvert other than a street, highway, bridge or culvert provided for in § 128-1 and sidewalks, ramps, accessways and other methods of ingress and egress to or from, within or without such property.

**§ 128-4. Duties of Highway Superintendent.**

The Town Highway Superintendent shall transmit, in writing, to the Town Clerk, within 10 days after receipt thereof, all written notices received by him or her pursuant to this article, and the Town Highway Superintendent shall take any and all corrective action with respect thereto as soon as practicable.

**§ 128-5. Record of notices.**

The Town Clerk shall keep an index record in a separate book of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of snow and ice upon any Town street, highway, bridge, culvert or sidewalk or any other property owned by the Town or by any improvement

district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Highway Superintendent of the receipt of such notice.

**ARTICLE II**  
**Construal; Supersession of Statute**

**§ 128-6. Construal of provisions.**

Nothing contained in this Part 1 shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, on the contrary, shall be held to be additional requirements to the rights to maintain such action nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the Town of Liberty, its officers and employees and/or any of its improvement districts any greater duty or obligation than that it shall keep its streets, highways, sidewalks and public places in reasonably safe condition for public use and travel.

**§ 128-7. Town Law superseded.**

This article shall supersede, in its application to the Town of Liberty, Subdivisions 1 and 3 of § 65-a of the Town Law of the State of New York.

**Part 2**  
**Street and Highway Construction and Dedication**

[Added 3-19-2007 by L.L. No. 4-2007<sup>1</sup>]

**ARTICLE III**  
**Design Standards**

**§ 128-8. Purpose.**

This Part 2 is enacted to ensure all streets, highways and other improvements constructed within the Town of Liberty offered for dedication to the Town or intended to be private in use meet the standards contained herein and have been reviewed and approved by the Town Engineer and the Town Highway Superintendent.

**§ 128-9. Administration.**

- A. Application. Any person or persons proposing to dedicate any streets, highways and other improvements to the Town of Liberty shall submit to the Town Clerk of the Town of Liberty five copies of a plan, prepared by a professional engineer, setting forth the details of the proposed construction thereof. Said plan shall be submitted prior to commencing the construction or reconstruction of the proposed street, highway and improvements. As-built plans prepared by a professional engineer shall also be required in those instances where

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1. Editor's Note: This local law also repealed former Part 2, Street and Highway Construction and Dedication, as amended.

existing streets, highways and improvements are proposed for dedication. The plan shall include all information necessary to document compliance with this Part 2 and shall include, as a minimum, the following information.

- (1) A map at a scale of one inch equals 50 feet showing the following:
  - (a) The locations, distances and bearings of right-of-way lines.
  - (b) The locations of storm drainage systems and devices.
  - (c) The locations of any existing or proposed easements.
  - (d) The location of utilities. Utility poles shall be a minimum of 26 feet from the center line.
  - (e) The locations and names of the record owners of real property over which the street or highway passes, said properties abutting on the street or highway proposed for dedication.
  - (f) Street or highway names.
- (2) Plans, profiles and cross sections of the streets or highways.
- (3) Detailed specifications for drainage facilities, erosion control measures and stormwater management plan.
- (4) Detailed specifications for any bridges.
- (5) Documentation, in the case of proposed dedications, regarding the identity of each property owner along the right-of-way of the proposed street or highway or improvement and certification that each such property owner has joined in the application for dedication and that each such property owner releases any right to assert any claim such property owner might otherwise have against any person, persons, partnership, corporation or political subdivision by reason of the dedication.
- (6) A filing fee in such amount as may be fixed from time to time by resolution of the Town Board.

B. Plan distribution. The Town Clerk shall distribute the filed plans as follows:

- (1) One with the Town Highway Superintendent.
- (2) One with the Town Engineer.
- (3) One with the Town Planning Board.
- (4) One with the Town Supervisor.
- (5) One in the Town Clerk's permanent files.

C. Plan review.

- (1) No action shall be taken by the Town Board until such time as the Town Planning Board and the Town Engineer have reviewed the plan of the proposed dedication.

- (2) The Town Planning Board and the Town Engineer shall, within 45 days of the Town Clerk's receipt of the application, review said application and make recommendations to the Town Highway Superintendent.
- (3) The Town Highway Superintendent shall, within 60 days of receipt of said recommendations:
  - (a) Review the plans and make an inspection of the street or highway site (the Town Highway Superintendent may request the Town Engineer to assist with any inspection required by this Part 2).
  - (b) Notify the applicant, in writing, of deficiencies, if any, in the plan.
  - (c) Recommend acceptance or rejection of the plans to the Town Board.
- (4) The applicant shall make any necessary modifications to the plan and resubmit the plans to the Town Highway Superintendent, who shall have an additional 30 days' review, and if more than one year shall elapse between the original filing date and the amendment filing date, an additional filing fee shall be required.
- (5) Upon receipt of the Town Highway Superintendent's recommendation to accept or reject the plans, the Town Board shall, within 60 days, determine to either accept or reject the plans. The Town Board may make its own inspection of the street or highway site prior to taking action. If the plans shall be rejected for any reason, the applicant shall be notified, in writing, within 15 days of the reasons for rejection and the manner in which the plans may be modified in order to be reconsidered. The applicant may request a conference with the Town Board and Town Highway Superintendent to review the reasons the plans were rejected and the manner in which the same may be modified, which conference shall take place at the earliest date convenient to the Town Board. If the plans are accepted, the applicant shall be so notified and may proceed with construction pursuant to this Part 2.

D. Construction procedure.

- (1) The construction or reconstruction of any streets, highways and improvements shall be in conformance with the approved plans.
- (2) Prior to the initiation of construction or reconstruction, the applicant shall propose an inspection schedule to the Town Highway Superintendent for approval. The inspection schedule shall include inspections adequate to ensure compliance with this Part 2. Inspections shall be required at all phases of construction to verify compliance with the approved plans at the time of the final inspection. At a minimum, inspections will be made at the completion of the subgrade prior to placement of the subbase, the subbase prior to placement of pavement, and during the paving process.
  - (a) If the subgrade preparation is deemed insufficient in specific areas, the Town Highway Superintendent and/or Town Engineer may require these areas to be removed and replaced with suitable material, the installation of geotextile stabilization or filter fabric and the placement of underdrains.
  - (b) The Town Highway Superintendent and/or Town Engineer shall require

compaction tests be conducted of subgrade or the in-place subbase material at the applicant's expense.

- (c) After the placement of the asphalt concrete, the Town Highway Superintendent and/or Town Engineer shall require corings be taken at the applicant's expense to verify the full depth of pavement and subbase.
  - (d) The Town may require, at the applicant's expense, full-time construction inspection.
- (3) The applicant shall provide a minimum of two working days' notice prior to the time for each inspection required in the inspection schedule.
- (4) If the Town Highway Superintendent determines construction is not in compliance with the approved plans, all construction shall be terminated until such time as the identified deficiency is corrected.
- E. Dedication procedures. When streets, highways and improvements are proposed for dedication and are constructed in compliance with the standards of this Part 2, the Town Highway Superintendent shall make a final inspection and report such completion to the Town Board. Once the Town Board receives such report from the Town Highway Superintendent, the following procedure shall be utilized to complete dedication:
- (1) The applicant shall provide to the Town Board three complete sets on Mylar and three complete sets on paper of all plans for the streets, highways and improvements, which shall be certified thereon by a licensed professional engineer as "as-constructed plans." The as-constructed plans shall include a statement by the licensed professional engineer certifying the roads as constructed are within the planned right-of-way. The plans shall include the information required by § 128-9A(1) of this Part 2.
  - (2) The date of completion of the improvements shall be established by the Town Highway Superintendent and confirmed by the Town Board.
  - (3) No streets, highways or improvements shall be accepted by the Town Board for dedication until one year from the date of completion has passed. During such one-year period, the applicant shall be responsible for all maintenance and repair of and snow and ice removal from the streets, highways and improvements proposed for the dedication.
  - (4) At the end of the aforesaid one-year period, the Town Highway Superintendent shall conduct an inspection of the improvements and certify to the Town Board as to the condition, integrity and functioning of the streets, highways and improvements. The applicant's professional engineer shall also certify as to the condition, integrity and functioning of the streets, highways and improvements in conformance with the approved plans and the requirements of the Town of Liberty. Any deficiencies shall be corrected by the applicant at the applicant's sole cost and expense.
  - (5) Following the aforesaid one-year period and upon the final certification by the Town Highway Superintendent and the applicant's professional engineer of compliance by the streets, highways and improvements with this Part 2, the Town Board shall accept the improvements for dedication upon the receipt of the following from the applicant:

- (a) Maintenance security in the amount of 25% of the cost of the construction of the improvements as certified by the applicant's professional engineer and accepted by the Town Engineer. Such security shall comply with § 277 of the Town Law and shall be satisfactory to the Town Attorney as to form, sufficiency, manner of execution and surety. The term of the security shall be for 12 months from the date of acceptance of dedication by the Town Board. Upon the failure of the street, highway or any of the improvements, the Town shall have use of the security to make any necessary repairs. If the security is insufficient to complete the repairs, the Town shall institute legal or equitable action against the applicant to recover the amount of the insufficiency for which the applicant shall remain liable.
- (b) Deeds for the streets, highways and all improvements, which shall be of a bargain and sale type with covenants against grantors acts and shall convey to the Town of Liberty all lands in fee simple.
- (c) A certificate of title and a title insurance policy in such amount as shall be determined by the Town Board and as shall be satisfactory to the Town Attorney as to form, sufficiency, manner of execution and surety.

F. Waiver of requirements. The Town Board shall have the authority to waive, vary or modify any of the requirements, procedures and standards set forth in this section, provided that any such waiver, variation or modification shall be no less protective of public health, safety and welfare.

**§ 128-10. Construction standards.**

Streets, highways and improvements constructed within and for dedication to the Town of Liberty or to remain private in use shall be constructed to the standards contained in this section and the laws, rules and regulations of the Town of Liberty pertaining to the subdivision of land.<sup>2</sup> In the event of any inconsistency between the standards of this section and the subdivision laws, rules and regulations, the more stringent standard shall apply.

A. Rights-of-way. Rights-of-way shall be provided as follows for streets, highways or roads as defined by the subdivision laws, rules and regulations:

<b>Type of Road</b>	<b>Minimum Width (feet)</b>
Major	60
Collector	50
Minor	50

B. Geometric requirements.

- (1) All streets, highways and roads shall be designed following generally accepted highway engineering principles.
- (2) Street jogs with center-line offsets of less than 125 feet shall be avoided.

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2. Editor's Note: See Ch. 130, Subdivision of Land.

- (3) In general, all streets, highways and roads shall intersect each other so that, for a distance of at least 150 feet, the street, highway or road is approximately at right angles to the street, highway or road it intersects.
- (4) The street, highway or improvement plan shall bear a logical relationship to the topography of the property and, if building sites are proposed along said proposed street, highway or improvements, it shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets.
- (5) Street, highway or road grades.

- (a) Profiles.

[1] No grade shall be less than 0.5% or exceed the following, with due allowances for reasonable vertical curves:

<b>Type of Road</b>	<b>Maximum Grade</b>
Major traffic streets, highways and roads	6% (up to 8% for 250 feet)
Collector streets	8% (up to 10% for 250 feet)
Minor streets, highways and roads	10% (up to 12% for 250 feet)

[2] Streets, highways and roads shall have a grade not to exceed 3% for a distance within 75 feet of the right-of-way line of any intersecting street, highway or road.

- (b) Cross section. All roads will be constructed to the requirements of the attached typical cross section.<sup>3</sup> The gradients of streets, highways and roads shall be no less than 0.5% without curbs and gutters and 0.3% with curbs and gutters. The Town Engineer may require that super elevations be incorporated in horizontal curves.

- (c) Minimum vertical and horizontal visibility (measured 3.75 feet eye level to stationary object 0.5 feet above ground level) for curves:

<b>Type of Road</b>	<b>Minimum Visibility (feet)</b>
Major streets, highways and roads	500
Collector streets, highways and roads	300
Minor streets, highways and roads	300
Streets, highways and roads shorter than 500 feet	150

- (6) All right-of-way lines at intersections shall be rounded by curves of at least a twenty-foot radius, and curbs, if required, shall be adjusted accordingly.
- (7) A tangent of at least 100 feet shall be introduced between reversed curves on all streets, highways and roads.
- (8) All dead-end streets, highways and roads intended to remain so permanently and such others as may be designated by the Town Highway Superintendent and/or Town

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3. Editor's Note: The cross section is on file in the Town offices.

Engineer shall terminate in a surfaced circular turnaround having a minimum pavement radius of 60 feet with a minimum right-of-way radius of 70 feet.

C. Construction of roadway.

(1) General.

- (a) The applicant shall establish and clearly mark the side of the limits of the right-of-way and location and elevation of drainage structures. Such markers shall be maintained at the applicant's expense until construction of the roadway, drainage and shoulder have been completed and accepted by the Town of Liberty.
- (b) Monuments. Concrete monuments or other permanent markers shall be installed every 300 feet on both sides of the right-of-way and all property lines.
- (c) Unless otherwise directed, in writing, by the Town Highway Superintendent and/or Town Engineer, final grading of the right-of-way and construction of pavement shall be delayed until all utilities, including house connections, have been installed and backfill in trenches has been thoroughly compacted. Earth shoulders and flow lines of ditches shall be maintained at all times at the applicant's expense during the course of construction.
- (d) Samples of materials to be used in the construction of the roadway shall be furnished to the Town Highway Superintendent and/or Town Engineer. The applicant shall be required to pay for any standard engineering tests which the Town Highway Superintendent shall deem necessary.
- (e) The Town Highway Superintendent and/or Town Engineer shall be granted full access to any construction taking place under these specifications and shall be allowed to take any standard engineering field test which may be appropriate.
- (f) All thicknesses called for are compact thicknesses.
- (g) The roadway shall be constructed as shown on a typical section provided to the applicant by the Town Highway Superintendent and/or Town Engineer and incorporated herein as Schedule A.<sup>4</sup>
- (h) Guide rails shall be installed at locations directed by the Town Highway Superintendent and/or Town Engineer in accordance with the New York State Department of Transportation standards in effect at the time of installation.
- (i) All signs installed shall be in conformance with the New York State Manual of Uniform Traffic Control Devices.

(2) Earthwork.

- (a) Clearing and grubbing.

[1] Clearing and grubbing shall consist of clearing the area of all vegetation

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4. Editor's Note: Schedule A is on file in the Town offices.

and shall be limited to that area to be covered by the roadway proper, shoulders, side slopes and ditches.

[2] All cleared material shall be removed from the development or otherwise disposed of in a manner approved by the Town Board.

(b) Subgrade. Prior to any excavation and/or embankment operation, all soil erosion and control measures shall be installed in accordance with the subdivision plans, the stormwater pollution prevention plan and to the satisfaction of the Town Highway Superintendent and/or Town Engineer. The subgrade prior to placement of the subgrade shall meet the requirements of § 203-2.02 of the New York State Department of Transportation Standard Specifications. All rock and boulders larger than six inches in diameter shall be excavated 12 inches below finished subgrade of the roadway. All topsoil or otherwise soft or unstable material, including organic or frozen material, shall be removed from within the roadway, shoulders and ditches and shall be replaced with suitable borrow. Fill required to complete the approved grades shall be acceptable to the Town Highway Superintendent and/or Town Engineer.

[1] The shape of the subgrade shall conform to the typical cross sections herein attached.<sup>5</sup>

[2] If the subgrade preparation is deemed insufficient in specific areas, the Town Highway Superintendent and/or Town Engineer may require those areas to be removed and replaced with suitable materials, the installation of geotextile stabilization or filter fabric and the placement of underdrains.

(c) Road section. The road section will be in conformance with the typical sections herein attached.<sup>6</sup>

(d) Subbase. The subbase shall be 12 inches thick consisting of an eight-inch bottom course meeting NYSDOT Subbase Course Type 3 and a four-inch top course meeting NYSDOT Subbase Course Type 2. The subbase shall not be installed during rain, when the subgrade is wet, or when the subgrade is frozen. The subbase will be thoroughly compacted. The Town Highway Superintendent and/or Town Engineer shall require compaction tests to be conducted at the owner's expense.

(e) Surfacing. Travel lanes (10 feet wide each) shall be surfaced with five inches of hot-mix asphalt concrete. The bottom course shall consist of three inches of NYSDOT Type 3 binder. The top course shall consist of two inches of NYSDOT Type 6 top. Shoulders will be surfaced with NYSDOT Type 2 subbase material. All surfaces will be thoroughly compacted. After placement of the asphalt concrete pavement, the Town Highway Superintendent and/or Town Engineer shall require, at the owner's expense, corings be taken to insure the proper thickness of the road section. Construction not meeting the typical

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5. Editor's Note: The cross section is on file in the Town offices.

6. Editor's Note: The cross section is on file in the Town offices.

cross section will be rejected.

- (3) Design and construction of drainage structures.
  - (a) All drainage facilities with a waterway area of 25 square feet or less shall be designed to accommodate runoff for a storm of ten-year frequency.
  - (b) Drainage structures with a waterway area over 25 square feet will be designed by a professional engineer and shall be capable of carrying the runoff from a storm of twenty-year frequency.
  - (c) In no event shall the diameter of a sluice pipe be less than 15 inches.
  - (d) Drainage channels shall be designed following generally accepted hydraulic engineering principles. Channels shall be normally of trapezoidal cross section with side slopes of two feet on one foot.
  - (e) The banks on both sides of drainage facilities and bridges servicing a stream or larger water source shall have rip-rapped construction of the banks beyond the head walls. The amount of rip-rap required shall be determined by the Town Highway Superintendent.
  - (f) Material used for drainage structures shall be approved by the Town Highway Superintendent and/or Town Engineer.
- (4) Turf establishment. All disturbed areas shall be designated for turf establishment. All disturbed areas will be seeded within three weeks after reaching final grade.
- (5) Signs and street names. Any proposed street name shall be approved by the Town Board of the Town of Liberty. In general, streets shall have names and not numbers or letters. The applicant shall pay for the cost of obtaining and installing approved street signs and sign posts.
- (6) Utilities.
  - (a) Wherever possible, utilities shall be underground and shall be placed in the street right-of-way between the ditches and outside boundary of the right-of-way to simplify location and repair of lines when they require attention.
  - (b) Whenever it is necessary that utilities cross the roadway, they shall do so at a right angle to the roadway.

D. Variations. Variations to the standards contained herein may be approved by the Town Board on the recommendation of the Town Highway Superintendent in cases where unreasonable hardship would result from strict application of the standard, the level of traffic and use would warrant a lesser standard or the interests of safety would be better served by a different standard.

**§ 128-11. Interpretation; conflicts with other provisions.**

A. Interpretation. The provisions of this Part 2 in their interpretation and application shall be held to the minimum requirements for the promotion of the public health, safety and

general welfare.

- B. Conflict. This Part 2 is not intended to interfere with, abrogate or annul any other ordinance, law, rule, regulation, statute or provision of law. Where any of the provisions of this Part 2 impose restrictions or standards different than any other ordinance, law, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

**Part 3**  
**Access to Town Streets, Highways and Roads**

[Added 3-19-2007 by L.L. No. 4-2007<sup>7</sup>]

ARTICLE IV  
**Access Requirements**

**§ 128-12. Purpose.**

This Part 3 is adopted for the purpose of regulating:

- A. The location and construction of utility facilities and other structures within the rights-of-way and bounds of streets, highways and roads of the Town of Liberty.
- B. The location, design, construction, maintenance and drainage of access driveways and private roads within the rights-of-way and bounds of streets, highways and roads of the Town of Liberty, for the purpose of ensuring the structural integrity of such driveways or private roads, avoidance of costs to the Town of Liberty for returning Town streets, highways and roads to their original condition, economy of maintenance, preservation of proper drainage and safe and convenient passage of traffic.

**§ 128-13. Definitions.**

As used in this Part 3, the following terms shall have the meanings indicated:

**ACCESS DRIVEWAY** — A private road or drive providing vehicular access to any structure or structures, building or buildings, lot or lots or parcel or parcels of land.

**APPLICANT** — The owner of land, or the owner's authorized agent, proposing to obtain access to a Town street, highway or road.

**PRIVATE ROAD** — A road or drive which is owned and maintained by anyone other than the Town of Liberty, the County of Sullivan or the State of New York.

**TOWN HIGHWAY SUPERINTENDENT** — The Highway Superintendent of the Town of Liberty or the Highway Superintendent's authorized representative.

**§ 128-14. Permits required.**

- A. No work shall be performed within the right-of-way or bounds of any street, highway and road of the Town of Liberty involving the placing or repair of utility facilities or other

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7. Editor's Note: This local law also repealed former Part 3, Access to Town Streets, Highways and Roads.

structures, opening of the surface for any purpose, laying out or constructing driveways or roads or any other means of ingress or egress or altering of drainage without first obtaining a permit from the Town of Liberty.

- B. Nothing in this Part 3 shall be construed to require a permit in advance for emergency repairs necessary for the safety of the public or restoration of service, but application for such permit and the fees shall be submitted as herein prescribed within five days after the commencement of the work.
- C. Nothing in this Part 3 shall be construed as requiring permits for the installation of utility poles.

**§ 128-15. Application for permit.**

The application for a permit required pursuant to this Part 3 shall be on a form prescribed by the Town Highway Superintendent, who shall also specify the number of copies required. The application for permit shall be made to the Town Highway Superintendent and be accompanied by the required number of copies of a plan detailing the location and pertinent dimensions of the opening, the proposed installation and method of construction and related street highway features (width of traveled roadway, right-of-way lines, distance to the lot lines). The plan shall also provide details with respect to culvert or similar drainage devices, ditches, grades and any other features as may be required by the Town Highway Superintendent to determine the adequacy of such means of access.

**§ 128-16. Permit fees.**

The application for permit shall be accompanied by such fee as shall be fixed from time to time by resolution of the Town Board. The fee shall cover the cost of processing the application and the first inspection of the work. Fees for additional inspections will be based on the cost of making the inspections. Additional fees may also be imposed for the cost associated with any restoration work performed by the Town as may be required.

**§ 128-17. Conditions of permit.**

- A. Drainage control.
  - (1) No increase in the flow of water into existing drainage facilities of a Town street, highway or road or onto the property of some other person shall be permitted unless a drainage control plan is submitted to and approved by the Town Highway Superintendent and/or Town Engineer.
  - (2) If an increase in the flow of water as described in Subsection A(1) above may occur, appropriate releases shall be obtained by the applicant from the owners of land receiving the increased runoff and submitted with the application.
  - (3) In the event that the existing drainage capacity on the Town street, highway or road would be insufficient to handle the additional runoff brought about by this construction work, it shall constitute sufficient grounds for denial of the permit.
- B. Work standards. All work shall be performed to the standards of the Town Highway

Superintendent and/or Town Engineer, which standards the Town Highway Superintendent is hereby authorized to promulgate, and shall also be consistent with the safety needs of the public. Where traffic control is necessary, it shall be accomplished according to the standards as shall be specified by the Town Highway Superintendent. All standards promulgated by the Town Highway Superintendent and pursuant hereto shall be subject to and require approval of the Town Board.

- C. Damage to public facilities. The permittee shall restore all pavement and shoulders to the condition that existed prior to performance of any work at the expense of the permittee. The permittee shall be responsible for repairing any failure of facilities within two years of completion of the work. If the permittee fails to comply herewith, the Town Highway Superintendent shall complete the necessary repairs and/or contract for the same and collect the cost and expense thereof as provided by this Part 3.
- D. Driveway and private road location.
  - (1) All driveways and private roads shall be located, designed, constructed and maintained so as not to interfere with the design, maintenance and drainage of the Town street, highway or road being intersected.
  - (2) Driveways shall be permitted only at locations with adequate sight distance and which will not create a traffic hazard. Locations of private roads shall conform to the standards of the Town of Liberty subdivision laws, rules and regulations.<sup>8</sup>
- E. Driveway design standards. All driveways must be constructed according to the standards promulgated by the Town Highway Superintendent and approved by the Town Board. These standards may be revised from time to time by the Town Highway Superintendent and shall be first approved by the Town Board, but such revision shall not affect pending applications under preexisting standards or driveways constructed prior to the enactment of this Part 3 unless an opening to the Town street, highway or road is to be changed or added.
- F. Work schedule. All work involving cuts in the traveled portion of a Town street, highway or road must be started within 15 days of permit issuance. All such work must be completed with five days of work commencement.
- G. Indemnification. The permittee shall fully indemnify and save harmless and defend the Town, its agents and employees of and from all liability for damages or injury occurring to any person or persons or property through or in consequence of any act or omission of the permittee and any contractor, agent, servant, employee or person engaged or employed in, about or upon the work but at the instance or with the approval or consent of the permittee, from any failure of the permittee or any such person to comply with the permit or this Part 3 and, for a period of two years after completion of the permitted work, from the failure of the highway in the immediate area of the work performed under the permit where there is no similar failure of the highway beyond the area adjacent to the area of the permitted work.
- H. Revocation. The Town Highway Superintendent shall have the right to revoke or annul any permit issued pursuant to this Part 3 at any time should the permittee fail to comply with

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<sup>8</sup>. Editor's Note: See Ch. 130, Subdivision of Land.

the terms and conditions upon which it is granted.

- I. Assignment. No permit shall be assigned or transferred without the written consent of the Town Highway Superintendent.

**§ 128-18. Work completion.**

Upon completion of the work authorized by permit, the Town Highway Superintendent shall cause the work to be inspected and, when necessary, enforce compliance with conditions prescribed by the permit and this Part 3. If the permittee shall fail to rectify any defect within 60 days of written notice from the Town Highway Superintendent to do so, the Town Highway Superintendent may cause the work to be performed and impose upon the applicant the cost thereof, together with an additional 20% of such cost to offset administrative costs.

**§ 128-19. Maintenance.**

All property owners whose property has an access driveway connecting with any street, highway or road of the Town of Liberty shall be required to maintain, at such property owner's sole cost and expense, the access driveway and all drainage facilities related thereto, including but not limited to any and all sluice pipes, culverts and/or conduits running underneath such access driveway and within drainage ditches or channels maintained by the Town along or within the bounds and/or rights-of-way of its streets, highways and roads. Maintenance shall include but not be limited to removal of snow and ice, garbage, brush, leaves, debris and any other materials that may interfere with the flow of water through the drainage facilities of any Town street, highway or road, as well as the repair and/or replacement of any such sluice pipe, culvert and/or conduit running underneath such access driveway and within drainage ditches or channels maintained by the Town along or within the bounds and/or rights-of-way of its streets, highways and roads. Notices of violations of this section may be issued by the Town's Code Enforcement Officer, at the direction of the Town Highway Superintendent. In the event a property owner fails to cure the violation within the time provided in such notice of violation, the Town Highway Superintendent may cause the required work to be performed and the necessary materials to be installed and impose upon the property owner the actual cost thereof together with an additional 20% of such cost to offset administrative costs.

**§ 128-20. Penalties for offenses.**

Any person who shall commit or assist in the commission of any violation of this Part 3 or who shall build, erect, construct or attempt the same contrary to the plans or specifications submitted to the Town Highway Superintendent and by the Town Highway Superintendent certified and approved as complying with this Part 3, and any person who shall omit, neglect or refuse to do any act required by this Part 3 shall be subject to a fine of not more than \$500, to be recovered by the Town Board in any court of competent jurisdiction. Every such person shall be deemed guilty of a separate offense for each day that such violation, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the person for the purpose of this Part 3.

**§ 128-21. Interpretation.**

This Part 3 is not intended to interfere with, abrogate or annul any other ordinance, law, rule, regulations, statute or provision of law. Where any of the provisions of this Part 3 impose restrictions different than any other ordinance, law, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

**§ 128-22. Waivers.**

The standards imposed by this Part 3 may be modified or waived in individual circumstances where health, safety or welfare concerns merit the same or where the occupancy would be temporary in nature, such as logging roads. Permits in such cases shall be issued with the exceptions deemed appropriate by the Town Highway Superintendent, provided that public health, safety and welfare will not be endangered. These standards also may be revised from time to time, but such revisions shall not affect applications pending under preexisting standards nor shall they have any bearing on private roads and driveways which were legally constructed prior to the original enactment of this Part 3, unless the same are proposed to be structurally modified so as to change or result in a new opening to a Town street, highway or road.