

Chapter 130

SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Liberty 3-10-1997 by L.L. No. 1-1997.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention administration — See Ch. 60.
Flood damage prevention — See Ch. 79.
Freshwater wetlands — See Ch. 82.
Mobile homes and mobile home parks — See Ch. 100.
Recreation vehicle parks — See Ch. 117.
Sewers and sewage — See Ch. 121.
Streets, highways and sidewalks — See Ch. 128.
Water — See Ch. 144.
Zoning — See Ch. 147.

ARTICLE I General Provisions

§ 130-1. Title.

This chapter provides for the regulation of subdivisions within the Town of Liberty, Sullivan County, New York. It may be cited as the "Town of Liberty Subdivision Law."

§ 130-2. Statutory Authority.

By resolution dated August 12, 1972, and amended July 9, 1987, the Town Board granted the Planning Board the authority to approve plats for the subdivision of land within the Town of Liberty outside the limits of the Village of Liberty.

§ 130-3. Purpose.

This chapter is adopted for the purpose of providing for the future growth and development of the Town and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population.

§ 130-4. Subdivision approval required.

- A. When any subdivision of land is proposed, before any offer is made to sell any part or all of the subdivision and before any permit for the erection of any structure in such subdivision shall be issued or any grading, clearing, construction or other improvements are undertaken, the subdivider or his authorized agent shall receive the appropriate approval of the proposed subdivision in accordance with the procedures and requirements of this chapter.

¹. Editor's Note: This local law also provided for the repeal of former Ch. 72 of the 1976 Code, Subdivision of Land, adopted as follows: Art. I, 7-9-1987 by L.L. No. 5-1987; Art. II, 7-14-1988 by L.L. No. 2-1988.

- B. It shall be the obligation of each prospective purchaser of a lot which forms any part of a subdivision to ensure that appropriate subdivision approval has been obtained. In the absence of such subdivision approval, a prospective purchaser shall not commence the erection of any structure on such lot, nor commence any grading, clearing, construction or other improvements.
- C. This chapter shall apply to all subdivisions of land made on or after its effective date.

§ 130-5. Interpretation; conflict; severability.

- A. The provisions of this chapter, in its interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- B. This chapter is not intended to interfere with, abrogate or annul any other ordinance, law, rule or regulation, statute or provision of law. Where any of the provisions of this chapter impose restrictions different than any other ordinance, law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This chapter, however, shall replace the subdivision regulations approved by the Town Board on July 14, 1988.
- C. If any part or provision of this chapter or application thereof to any person or circumstances is judged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this chapter even without such part, provision or application.

§ 130-6. Waiver of requirements.

The Planning Board may waive, when reasonable, any requirements or improvements for the approval, approval with modifications or disapproval of subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event that any such requirements or improvements are found not to be requisite in the interest of the public health, safety and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

§ 130-7. Penalties for offenses; additional remedies.

- A. Any person who violates any provision of this chapter shall be deemed to have committed an offense against this chapter and shall be liable for said violation.
- B. Any person violating this chapter shall be subject to a fine of not more than \$250 or imprisonment for not more than 15 days, or both, for each such offense. Such penalty shall be collectible by and in the name of the Town.
- C. In the event of a violation of this chapter, in addition to the penalty specified in § 130-7B hereof, the Town shall be entitled to claim, as additional damages, its actual costs in enforcing this chapter, which costs shall include, but not be limited to, legal fees, court filing fees, costs and disbursements of litigation, witness fees, experts' fees and any

additional expenses related to the enforcement process.

- D. Each week's continued violation after notice thereof shall constitute a separate violation and offense.
- E. All remedies on behalf of the Town provided for in this chapter or available at law or equity shall be enforceable against a subdivider or a purchaser of any lot which forms a part of any subdivision.
- F. In addition to the other penalties provided in this chapter, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any portion of this chapter.

§ 130-8. Fees.

- A. The Town Board shall, from time to time, by resolution, establish fees for each of the following:
 - (1) Application packet. Fee to be charged for purchase of an application packet from the Planning Board Secretary.
 - (2) Application fee. Fee to be paid at the time of submission of an application for subdivision approval to the Planning Board Secretary, which fee shall be charged on a per-plat or per-lot basis, or both.
 - (3) Public hearing fee. Fee to be paid to the Planning Board Secretary prior to the scheduling of a public hearing, which fee shall be charged on a per-hearing or per-notice basis, or both.
 - (4) Fee in lieu of park land dedication. Fee to be charged in cases where the Planning Board finds that dedication of park lands would be unreasonable or undesirable (see § 130-17C), which fee shall be charged on a per-lot basis.
- B. In addition, where applicable, a subdivider shall pay to the Town the Town's actual costs for the following:
 - (1) Technical review fee. Fee to be paid to the Planning Board to defray costs associated with review of a subdivision by the Town Engineer, Town Attorney or Town Planner. An estimated technical review fee shall be paid at the time of submission of the preliminary plat. All technical review fees shall be paid in full before action is taken on the final plat.
 - (2) Inspection fees. Fees to cover inspections and related costs. Prior to certification of any improvements or related performance guaranties, the subdivider shall pay all inspection and related costs (for professional services and expenses) associated with the performance guaranties. These costs will be assessed as a special fee apart from the regular fees provided for in any other provisions of this chapter.
 - (3) Environmental review fee. Prior to submission of a final plat, the subdivider shall pay all costs (for professional services and expenses) associated with the state

environmental quality review process relating to the proposed subdivision. These costs will be assessed as a special fee apart from the regular fees provided for in any other provisions of this chapter.

ARTICLE II Definitions and Word Usage

§ 130-9. Word Usage.

- A. As used in these regulations, words in the singular include the plural and those in the plural include the singular. The words "shall" and "will," for the purpose of these regulations, are defined as mandatory.
- B. For the purpose of these regulations, the following terms shall be considered interchangeable:
 - (1) The terms "Town" and "Town of Liberty."
 - (2) The terms "subdivider" and "developer."
 - (3) The terms "subdivision," "development" and "land development."
 - (4) The terms "plat" and "plan."
 - (5) The terms "State Environmental Quality Review Act" and "SEQRA."

§ 130-10. Definitions.

Unless otherwise expressly stated, the following definitions shall, for the purpose of this chapter, have the meanings herein indicated. Any pertinent word or term not a part of this listing shall be construed to have its legal definition. The following terms shall have the following meanings:

APPLICANT — A landowner, subdivider or developer, who has filed an application for a subdivision, including the applicant's heirs, successors and assigns.

APPLICATION — Forms provided to the Planning Board, with full answers to all requests for pertinent information regarding a property proposed for subdivision, along with the requisite information regarding the property, accompanied by all supporting documentation, graphic and otherwise, necessary for the Board to make a decision appropriate to its stage of review.

BUILDING SETBACK LINE — The line within a property defining the required minimum distances between any structure and the adjacent right-of-way or property line of any lot. The setback shall be measured from the edge of the right-of-way bordering the property.

COMMON OPEN SPACE — A parcel or parcels of land or an area of water or a combination of land and water within a development site designed and intended for the use or enjoyment of the residents of the development. It does not include streets, off-street parking areas and areas set aside for utility placement, rights-of-way or similar public facilities.

COMMON PROPERTY — All of the land and improvements, part of a subdivision or land development which are to be owned and maintained by the lot owners or Association members of the development and identified as such by the subdivider.

COUNTY — The County of Sullivan, State of New York.

DEDICATION — The appropriation of land by its owner for any general or public uses. This shall not be construed as acceptance by the Town of responsibility for maintenance or ownership of such land and attendant facilities, except where appropriate legal documents specifically relating to the same have been executed.

DEEP PIT TESTS — Opening excavated vertically from ground surface to a minimum depth of six feet or solid ledge rock, whichever occurs first, to expose groundwater conditions and subsurface soil stratas for examination.

DRAINAGE EASEMENT — An easement required for installation of stormwater sewers or drainage ditches or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

DRIVEWAY — A defined private access from an individual lot to a public highway or approved right-of-way.

EASEMENT — A right granted, but not dedicated, for limited use of private land for a public, quasipublic or private purpose, and within which the owner of the property shall not erect any permanent structure but shall have the right to make any other use of the land which is not inconsistent with the rights of the holder of the easement.

FINAL PLAT — A drawing that shows a proposed subdivision, containing in such additional detail all information required to be shown on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of the preliminary plat if such preliminary plat has been so approved.

FINAL PLAT APPROVAL — The signing of a plat in final form by a duly authorized officer of the Planning Board pursuant to a Planning Board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional final approval of the plat are completed. Such final approval qualifies the plat for recording in the office of the County Clerk.

FINAL PLAT, CONDITIONAL APPROVAL — Approval by the Planning Board of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of any building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the County Clerk.

LOT — A tract or parcel of land (held in single or joint ownership, not necessarily shown on a duly recorded map) which is occupied or capable of being occupied by buildings, structures and accessory buildings, including such open spaces as are arranged, designed or required. The term "lot" shall also mean "parcel," "plot," "site" or any similar term.

LOT AREA — The area of land contained within the limits of the property lines bounding that lot. Any portion of a lot included in a street right-of-way, designated wetland, utility right-of-way or land under water shall not be included in calculating lot area.

LOT IMPROVEMENT — A division of land or combination of lots exempt from the formal subdivision review process.

LOT WIDTH — The distance between the two side lot lines at the building setback line.

MAJOR SUBDIVISION — Any subdivision which is not a minor subdivision or lot improvement. Any subdivision which involves the utilization of a community water supply or community sewage disposal system, the construction of any streets or the utilization of clustering techniques shall be considered a major subdivision, regardless of the number of lots.

MINOR SUBDIVISION — A subdivision containing not more than four lots of any original tract of land of record, i.e., not previously subdivided or developed subsequent to adoption of subdivision regulations by the Town of Liberty on August 17, 1972.

PERCOLATION TEST — A measurement of the rate of downward flow or infiltration of water through the pores or spaces of the soil.

PERSON — Any individual, firm, trust, partnership, public or private association, corporation or other entity.

PLANNING BOARD — The Town of Liberty Planning Board.

PLANNING BOARD SECRETARY — An individual appointed by the Town Board responsible for application and plat intake, collection of fees, publishing and mailing notices of meetings and hearings and keeping the official minutes and records for the Planning Board. The term shall include one or more duly appointed individuals to assist the Planning Board Secretary with his or her duties.

PRELIMINARY PLAT — A drawing showing the layout of a proposed subdivision, including but not restricted to road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles, at suitable scale and in such detail as the Planning Board may require.

PRELIMINARY PLAT APPROVAL — The approval of the layout of a proposed subdivision as set forth in a preliminary plat but subject to the approval of the plat in final form.

PROFESSIONAL ENGINEER — A person licensed to practice engineering within the State of New York.

RIGHT-OF-WAY — Land reserved for use as a road, street, alley or walkway.

SIGHT DISTANCE — The distance one can see in any direction from a given point on a street.

SKETCH PLAN — An informal plan, identified as such with the words "Sketch Plan" in the title, indicating salient existing features of a tract and its surroundings and the general layout of the proposed subdivision.

STATE ENVIRONMENTAL QUALITY REVIEW ACT — Article 8 of the Environmental Conservation Law and the implementing regulations relating thereto. State Environmental Quality Review Act is referred to herein as "SEQRA."

SUBDIVISION — The division of any parcel of land into a number of lots, blocks or sites with or without streets or highways, for the purpose of sale, transfer of ownership or development.

SURVEYOR, LICENSED LAND — A land surveyor licensed by the State of New York or a professional engineer state-approved to provide similar services.

WATERCOURSE — A visible path through which surface water travels on a regular basis,

including an intermittent stream. A drainage ditch, swale or surface feature that contains water only during and immediately after a rainstorm shall not be considered to be a watercourse.

ARTICLE III

Application; plat submission; review requirements

§ 130-11. Lot improvements.

A. Lot improvements, wherein a parcel of land is added to an existing lot for the purpose of increasing the size of the existing lot or a number of smaller lots are resubdivided or reallocated so as to make a lesser number of larger lots, shall be exempt from the provisions of these regulations, provided that:

- (1) Any lot proposed to be reduced in size shall comply in all respects with the provisions of this chapter and the Town Zoning Law; and
- (2) Three copies of the plan are submitted to the Planning Board.

B. Recording approval. After the Planning Board shall have determined that the conditions for a lot improvement exemption have been met, a duly authorized member of the Planning Board shall sign the plat with the following notation:

"Approval is granted for recording purposes only in accordance with § 130-11 of the Town of Liberty Subdivision Law."

C. Plat requirements; fees. Plats submitted as lot improvements shall meet the plat requirements for minor subdivisions and shall be subject to the same schedule of fees as minor subdivisions.

§ 130-12. Minor subdivisions.

The following procedures and requirements shall apply to minor subdivisions only.

A. Application requirements. Any person proposing to create a minor subdivision shall submit, along with plats required in § 130-12B, five copies of an application for minor subdivision approval. This application shall set forth:

- (1) The name, address and telephone number of the property owner of record or his or her agent. If an agent shall be involved, authorization from the owner(s) shall be provided.
- (2) The name or number of the road where the proposed subdivision is to be located.
- (3) The name, address and telephone number of the surveyor or engineer preparing the subdivision plat.
- (4) The type of water supply proposed.
- (5) The type of sewer system proposed.
- (6) The name and address of each adjoining property owner.
- (7) Fees as per the schedule adopted by the Town Board, paid with the application to the

Planning Board Secretary.

- (8) A copy of the most recent deed to the subject property.
- B. Plat requirements. The subdivider shall submit five copies of the plat and required supplementary data for the proposed subdivision. This plat shall show all the lots proposed to be created. The plat shall meet the following requirements:
- (1) Such plat shall be clearly marked "final plat."
 - (2) The map shall be drawn by a licensed land surveyor to the County Clerk's requirements.
 - (3) The map shall show the name of the municipality, name of the owner of record, North point, scale and date.
 - (4) The names of all adjoining property owners and the size of any remaining acreage in the tract from which lots are being taken shall be shown.
 - (5) Topography of the site to at least twenty-foot contours shall be shown.
 - (6) Existing public roads shall be identified by name and route numbers and private roads by their posted names.
 - (7) Proposed lot lines shall be drawn to scale and dimensions given in feet and hundredths of a foot. Lot areas shall be indicated.
 - (8) The plat shall depict the proposed subdivision as part of the contiguous holdings of the subdivider, including all lots taken from the original parcel over the previous five years.
 - (9) Certification by a licensed surveyor as to the accuracy of the survey and give the date of the survey and the date the drawing was completed.
 - (10) The location of New York State-designated wetlands or flood hazard areas.
 - (11) Except as to lots to be serviced by a public or community sewer system, location and results of percolation tests and deep pit tests for each lot five acres in size or smaller shall be set forth. The Planning Board may require percolation tests and deep pit tests for lots larger than five acres.
 - (12) Any other information the Planning Board may deem appropriate.
- C. Approval of plat.
- (1) The subdivider shall submit the application, along with the required copies of the plat, to the Planning Board Secretary at least 10 days prior to the meeting of the Planning Board at which initial review is desired. The Secretary shall note receipt of the applications and collect the fees due.
 - (2) The plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of SEQRA. The time periods for review of such plat shall begin upon filing of such a negative declaration or such notice of

completion.

(3) The following review procedure shall apply to minor subdivisions:

(a) Planning Board as lead agency under SEQRA; public hearing; notice; decision.

[1] Public hearing on final plats. The time within which the Planning Board shall hold a public hearing on the plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the SEQRA, as follows:

[a] Environmental impact statement not required. If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on the plat shall be held within 62 days after the receipt of a complete plat by the Secretary of the Planning Board; or

[b] Environmental impact statement is required. If the Planning Board determines that an environmental impact statement is required and a public hearing on the draft environmental impact statement is held, the public hearing on the plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the public hearing on the plat shall be held within 62 days following filing of the notice of completion.

[2] Public hearing; notice; length. The hearing on the plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if no hearing is held on the draft environmental impact statement or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of the plat. The hearing on the plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

[3] Decision. The Planning Board shall make its decision on the plat as follows:

[a] If the Planning Board determines that the preparation of an environmental impact statement on the plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days after the date of the public hearing; or

[b] If the Planning Board determines that an environmental impact statement is required and a public hearing is held on the draft environmental impact statement, the final environmental impact

statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the plat. Within 30 days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat.

[4] Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

(b) Planning Board not as lead agency under SEQRA; public hearing; notice; decision.

[1] Public hearing. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the plat within 62 days after the receipt of a complete plat by the Secretary of the Planning Board.

[2] Public hearing; notice; length. The hearing on the plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if held independently of the hearing on the draft environmental impact statement or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such plat. The hearing on the plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

[3] Decision. The Planning Board shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days after the close of the public hearing on such plat. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

D. Approval and certification of plats.

(1) Certification of plat; filing of decision on plat. Within five business days of the adoption of the resolution granting conditional or final approval of the plat, such plat shall be certified by the Secretary of the Planning Board as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such Secretary's office. A copy of the resolution shall be mailed to the owner. In the case of a conditionally approved plat, such resolution shall include a statement of the

requirements which when completed will authorize the signing thereof. Upon completion of such requirements the plat shall be signed by said duly authorized officer of the Planning Board and a copy of such signed plat shall be filed with the Town Clerk.

- (2) Approval of plat in sections. Plats reviewed by the Planning Board as a minor subdivision shall not be approved in sections.
 - (3) Duration of conditional approval of plat. Conditional approval of the plat shall expire within 180 days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed. The Planning Board may extend by not more than two additional periods of 90 days each the time in which a conditionally approved plat must be submitted for signature if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.
- E. Default approval of preliminary or final plat. The time periods prescribed herein within which a Planning Board must take action on a preliminary plat or a final plat are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the owner and the Planning Board. In the event that the Planning Board fails to take action on a preliminary plat or a final plat within the time prescribed therefore after completion of all requirements under the State Environmental Quality Review Act or within such extended period as may have been established by the mutual consent of the owner and the Planning Board, such preliminary or final plat shall be deemed granted approval. The certificate of the Town Clerk as to the date of submission of the preliminary or final plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.
- F. Filing of final plat; expiration of approval.
- (1) The owner shall file in the office of the County Clerk such approved final plat or a section of such plat within 62 days from the date of final approval or such approval shall expire. The following shall constitute final approval:
 - (a) The signature of the duly authorized officer of the Planning Board constituting final approval by the Planning Board of a plat as herein provided; or
 - (b) The approval by such Board of the development of a plat or plats already filed in the office of the County Clerk of the County in which such plat or plats are located if such plats are entirely or partially undeveloped; or
 - (c) The certificate of the Town Clerk as to the date of the submission of the final plat and the failure of the Planning Board to take action within the time herein provided.
 - (2) In the event that the owner shall file only a section of such approved plat in the office of the County Clerk, the entire approved plat shall be filed within 30 days of the filing of such section with the Town Clerk in each Town in which any portion of the land described in the plat is situated. Such section shall encompass at least 10% of the total

number of lots contained in the approved plat, and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of § 265-a, Subdivision 2 of the New York State Town Law.

§ 130-13. Major subdivisions.

The following procedures and requirements shall apply to major subdivisions.

- A. Application requirements. Any person proposing to create a major subdivision shall submit, along with plats required in § 170-13B, D and F, five copies of an application for major subdivision approval. This application shall set forth:
- (1) The name, address and telephone number of the property owner of record or his or her agent. If an agent shall be involved, authorization from the owner(s) shall be provided.
 - (2) The name or number of the road where the proposed subdivision is to be located.
 - (3) The name, address and telephone number of the surveyor or engineer preparing the subdivision plat.
 - (4) The type of water supply proposed.
 - (5) The type of sewer system proposed.
 - (6) The name and address of each adjoining property owner.
 - (7) Fees as per the schedule adopted by the Town Board, paid with the application to the Planning Board Secretary.
 - (8) A copy of the most recent deed to the subject property.
- B. Sketch plans for major subdivisions. Ten copies of a sketch plan shall be submitted to the Planning Board of a scale sufficient to show the entire tract on one sheet. The sketch plan should show or include the following:
- (1) The map shall show the name of the municipality, name of the owner or record, North point, scale and date.
 - (2) The name of the owners of all adjoining properties as disclosed by the most recent tax rolls.
 - (3) A location map depicting the premises upon the United States Geological Survey quadrangle map(s).
 - (4) The location of that portion of a tract which is to be subdivided in relation to the entire tract.
 - (5) All streets or roads, streams, water mains, sanitary sewers, electric, power lines and telephone lines within 500 feet of the subdivision.
 - (6) The types and bounds of all soil types on the site.

- (7) All existing structures and wooded areas within the area to be subdivided.
 - (8) The tentative layout of the remainder of the tract or other contiguous property owned by the subdivider.
- C. Preliminary plat requirements for major subdivisions. Ten copies of the preliminary plat shall be required for all proposed major subdivisions. The preliminary plat shall be submitted to the Planning Board Secretary at least 10 days prior to the meeting at which the plat will be initially reviewed. The preliminary plat shall meet the following requirements and contain the following information:
- (1) The plat shall be clearly marked "preliminary plat."
 - (2) The preliminary plat shall be clearly and legibly drawn by a licensed land surveyor to the County Clerk's requirements.
 - (3) The proposed name of the subdivision. The name shall not duplicate in spelling or pronunciation any recorded subdivision within the Town of Liberty.
 - (4) The location by Town, County and state. The plat should also include tax map numbers for the subject parcel and adjoining parcels.
 - (5) The boundaries of the total tract and acreage contained within it.
 - (6) The preliminary plat shall depict the proposed subdivision as part of the contiguous holdings of the subdivider, including all lots taken from the original parcel over the previous five years.
 - (7) The names of the owners of adjoining properties and lines showing where property lines of adjoining properties intersect the subject parcel.
 - (8) All applicable zoning data.
 - (9) The proposed lot layout, with a numbering of the lots.
 - (10) The approximate dimensions and acreage of each lot.
 - (11) The existing contours at intervals of not more than 20 feet. (United States Geological Survey maps may suffice for the basis of this item.) The Planning Board reserves the right to request greater detail when necessary due to the scope or nature of the development.
 - (12) The location and extent of undevelopable areas, including rights-of-way for streets, utility easements, existing buildings and all existing or proposed open space areas or parks.
 - (13) The approximate locations of existing sanitary sewers, public water mains, storm sewers, electric power, telephone lines and all other similar items either above or below ground, with direction of flow and pressure, if applicable.
 - (14) The proposed layout of streets, including rights-of-way width and proposed names. Street names shall not duplicate existing names by spelling or pronunciation. The street proposals shall be accompanied by a submission of design materials, including

profiles, cross sections and preliminary designs for bridges and culverts.

- (15) All drainage easements marked as such.
 - (16) Approximate final grades in areas where cuts or fills are to be made.
 - (17) Building setback lines.
 - (18) Any lots designated for uses other than residential shall be indicated.
 - (19) The parcels to be dedicated to the public or reserved for public use or to be reserved for use by residents of the subdivision shall be shown and marked as such.
 - (20) Except as to lots to be serviced by a public or community sewer system, location and results of percolation tests and deep pit tests for each lot five acres in size or smaller shall be set forth. The Planning Board may require percolation tests and deep pit tests for lots larger than five acres.
 - (21) The location of New York State-designated wetlands.
 - (22) The location of any designated flood hazard areas.
 - (23) An erosion and sedimentation control plan prepared by a licensed professional engineer in cooperation with the Sullivan County Soil and Water Conservation District, if required by the Planning Board.
 - (24) A stormwater management plan prepared by a licensed professional engineer, in cooperation with the Sullivan County Soil and Water Conservation District, if required by the Planning Board.
 - (25) Any other information the Planning Board may deem appropriate.
- D. Approval of preliminary plats.
- (1) Coordination with the State Environmental Quality Review Act. The Planning Board shall comply with the provisions of SEQRA under Article 8 of the Environmental Conservation Law and its implementing regulations.
 - (2) Receipt of a complete preliminary plat. A preliminary plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of SEQRA. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.
 - (3) The following review procedure shall apply to major subdivisions:
 - (a) Planning Board as lead agency under SEQRA; public hearing; notice; decision. Public hearing on preliminary plats. The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQRA, as follows:
 - [1] Environmental impact statement not required. If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall

be held within 62 days after the receipt of a complete preliminary plat by the Secretary of the Planning Board; or

- [2] Environmental impact statement is required. If the Planning Board determines that an environmental impact statement is required, a public hearing on the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the public hearing on the preliminary plat shall be held within 62 days of filing the notice of completion.
 - (b) Public hearing; notice, length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if no hearing is held on the draft environmental impact statement or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.
 - (c) Decision. The Planning Board shall approve with or without modification or disapprove such preliminary plat as follows:
 - [1] If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing; or
 - [2] If the Planning Board determines that an environmental impact statement is required and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the preliminary plat. Within 30 days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.
 - (d) Grounds for decision. The grounds for modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.
- (4) Planning Board not as lead agency under SEQRA; public hearing; notice; decision.
- (a) Public hearing on preliminary plats. The Planning Board shall, with the

agreement of the lead agency, hold for public hearing on the preliminary plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement or if no public hearing is held on the draft environmental impact statement, the Planning Board shall hold the public hearing on the preliminary plat within 62 days after the receipt of a complete preliminary plat by the Secretary of the Planning Board.

- (b) Public hearing; notice, length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if held independently of the hearing on the draft environmental impact statement or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.
 - (c) Decision. The Planning Board shall by resolution approve with or without modification or disapprove the preliminary plat as follows:
 - [1] If the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing on such preliminary plat.
 - [2] If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the preliminary plat within 62 days after the close of the public hearing on such preliminary plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer.
 - (d) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.
- (5) Certification and filing of preliminary plat. Within five business days of the adoption of the resolution granting approval of such preliminary plat, such plat shall be certified by the Secretary of the Planning Board as having been granted preliminary approval, and a copy of the plat and resolution shall be filed in such Clerk's office. A copy of the resolution shall be mailed to the owner.
 - (6) Filing of decision on preliminary plat. Within five business days from the date of the adoption of the resolution approving the preliminary plat, the Chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.
 - (7) Revocation of approval of preliminary plat. Within six months of the approval of the preliminary plat the owner must submit the plat in final form. If the final plat is not submitted within six months, approval of the preliminary plat may be revoked by the Planning Board.

E. Requirements for guaranty of improvements.

- (1) Methods to be followed. After approval of the preliminary plat, the subdivider, in a manner consistent with § 277 of the New York State Town Law, shall provide for the installation of required improvements (those physical additions and changes which may be necessary to provide usable and desirable lots). Prior to requesting final plat approval, the subdivider must:
 - (a) Install all the required improvements; or
 - (b) File with the Town of Liberty a performance guaranty to ensure installation and construction of all required improvements.
- (2) Performance bond or other security.
 - (a) Furnishing of performance bond or other security. As an alternative to the installation of infrastructure and improvements as above provided, prior to requesting final plat approval, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Planning Board or a Town department designated by the Planning Board to make such estimate, where such departmental estimate is deemed acceptable by the Planning Board, shall be furnished to the Town by the owner.
 - (b) Security where plat approved in sections. In the event that the owner shall be authorized to file the approved plat in sections, as provided in § 276, Subdivision 7(b) of the New York State Town Law, approval of the plat may be granted upon the installation of the required improvements or in the furnishing of security covering the costs of such improvements in the section of the plat to be so approved. The owner shall not be permitted to begin construction of buildings in any other section until the required improvements have been installed in such section or a security covering the cost of such improvements has been provided and a plat relating to such section has been filed in the office of the County Clerk.
 - (c) Form of security. Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town Attorney as to form and manner of execution and the Town Engineer as to sufficiency, and shall be limited to:
 - [1] A performance bond issued by a bonding or surety company authorized to do business in this state;
 - [2] The deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in this state;
 - [3] An irrevocable letter of credit from a bank located and authorized to do business in this state;
 - [4] Obligations of the United States of America; or
 - [5] Any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of

such improvements. If not delivered to the Town, such security shall be held in a Town account at a bank or trust company.

- (d) Term of security agreement. Any such performance bond or security agreement shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three years; provided, however, that the term of such performance bond or security agreement may be extended by the Planning Board with consent of the parties thereto. If the Planning Board shall decide at any time during the term of the performance bond or security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such security or that the required improvements have been installed as contemplated to an extent to warrant reduction in the amount of said security, and upon approval by the Town Board, the Planning Board may modify its requirements for any or all such improvements, and the amount of such security shall thereupon be reduced by an appropriate amount so that the reduced amount will cover the full cost of the amended list of improvements required by the Planning Board.
 - (e) Default of security agreement. In the event that any required improvements have not been installed within the term of such security agreement, the Town Board may thereupon declare said performance bond or security agreement to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds thereof, the Town shall install such improvements as are covered by such security as are commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.
- (3) Maintenance bond. Where improvements are being dedicated to the Town, the subdivider shall submit a maintenance bond or other approved security to guarantee maintenance and repair of those improvements for 12 months from the date of dedication. The maintenance bond shall generally be a maximum of 15% of the costs of improvements, subject to approval of the Town Board, and may be waived or altered by the Town Board on the advice of the Town Engineer.
- F. Final plat requirements for major subdivision. The final plat shall be drawn on Mylar. The plat shall be prepared on one or more sheets of a uniform size and scale. Final plat attachments and exhibits shall be numbered and labeled in accordance with the requirements of this section. The final plat submission shall include, in addition to the information required for the preliminary plat submission, the following:
- (1) The exact locations, widths and names of all streets within the subdivision.
 - (2) Complete curve data for all curves shown on the plat.
 - (3) Exact descriptions of all easements being provided for services or utilities in the subdivision and any limitations placed on the use of such easements.
 - (4) Accurate outlines of any lots or areas to be reserved or dedicated for common use by residents of the subdivision or for any public use, with the purpose indicated thereon.

- (5) Building setback lines, shown graphically, with dimensions.
- (6) A final version of all covenants and restrictions, if any, the developer intends to impose in the subdivision. If no such restrictions or covenants are to be imposed, a statement to that effect shall be included.
- (7) The total tract boundary lines of the area being subdivided, with accurate distances to hundredths of a foot and bearings to one minute. These boundaries shall be determined by accurate survey in the field. The location and elevation of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the surveyor shall certify as to the accuracy of the survey, the drawn plat and the placement of the monuments.
- (8) Satisfactory evidence that all improvements have either been installed and approved, or that a performance guaranty has been submitted to and approved by the Town Board.
- (9) Complete final construction plans and profiles of installed or proposed public or community sanitary sewage disposal systems, with grades and pipe sizes.
- (10) Complete final construction plans of installed or proposed public water or community supply systems, showing pipe sizes and locations of valves and fire hydrants, if any.
- (11) Complete final construction plans and profiles of installed or proposed storm drainage systems, with grades and pipe sizes.
- (12) Evidence of actual agreements made with utility companies or agencies for supplying each lot in the subdivision with electric power and telephone service.
- (13) A key map, for the purpose of locating the site to be subdivided, at a scale of not smaller than 2,000 feet to one inch, showing the relation of the property to all streets, roads and municipal boundaries existing within 4,000 feet of the subdivision. United States Geological Survey quadrangle maps shall be the base for such a key map.
- (14) Approval blocks for the signature of the Chairman or other duly authorized member of the Town Planning Board shall appear on the first sheet of all set of plats, including the Mylars.
- (15) A statement that erosion and sedimentation control plan and stormwater management plan, if required by the Planning Board, have been prepared and were approved by the Town Engineer.

G. Approval of final plats.

- (1) Submission of final plats. Final plats shall conform to the definition provided by this section. Plats may require further review under SEQRA.
- (2) Final plats which are in substantial agreement with approved preliminary plats. When a final plat is submitted which the Planning Board deems to be in substantial agreement with the approved preliminary plat, the Planning Board shall by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days of its receipt by the

Secretary of the Planning Board.

- (3) Final plats not in substantial agreement with approved preliminary plats. When a final plat is submitted which the Planning Board deems not to be in substantial agreement with the approved preliminary plat, the following shall apply:
 - (a) Planning Board as lead agency under SEQRA; public hearing; notice; decision.
 - [1] Public hearing on final plats. The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQRA, as follows:
 - [a] Environmental impact statement not required. If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not in substantial agreement with a preliminary plat shall be held within 62 days after the receipt of a complete final plat by the Secretary of the Planning Board; or
 - [b] Environmental impact statement required. If the Planning Board determines that an environmental impact statement is required and a public hearing on the draft environmental impact statement is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within 62 days following filing of the notice of completion.
 - [2] Public hearing; notice, length. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if no hearing is held on the draft environmental impact statement or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.
 - [3] Decision. The Planning Board shall make its decision on the final plat as follows:
 - [a] Environmental impact statement is not required. If the Planning Board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days after the date of the public hearing; or

- [b] Environmental impact statement is required. If the Planning Board determines that an environmental impact statement is required and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the final plat. Within 30 days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat.
 - [4] Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.
- (b) Planning Board not as lead agency under SEQRA; public hearing; notice; decision.
- [1] Public hearing. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, or if no public hearing is held on the draft environmental impact statement, the Planning Board shall hold the public hearing on the final plat within 62 days after the receipt of a complete final plat by the Secretary of the Planning Board.
 - [2] Public hearing; notice, length. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if held independently of the hearing on the draft environmental impact statement or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.
 - [3] Decision. The Planning Board shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days after the close of the public hearing on such final plat as follows:
 - [a] If the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing on the final plat.

[b] If an environmental impact statement is required, the Planning Board shall make its decision on the final plat within 62 days after the close of the public hearing on such final plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer.

[4] Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

H. Approval and certification of final plats.

- (1) Certification of plat. Within five business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Secretary of the Planning Board as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such Secretary's office. A copy of the resolution shall be mailed to the owner. In case of a conditionally approved plat, such resolution shall include a statement of the requirements which when completed will authorize the signing thereof. Upon completion of such requirements the plat shall be signed by said duly authorized officer of the Planning Board and a copy of such signed plat shall be filed with the Town Clerk.
- (2) Approval of plat in sections. In granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be developed in two or more sections and may in its resolution granting conditional or final approval state such requirements as it deems necessary to ensure the orderly development of the plat be completed before said sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat may be granted concurrently with conditional or final approval of the entire plat, subject to any requirements imposed by the Planning Board.
- (3) Duration of conditional approval of final plat. Conditional approval of the final plat shall expire within 180 days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed. The Planning Board may extend by not more than two additional periods of 90 days each, the time in which a conditionally approved plat must be submitted for signatures if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.

- I. Default approval of preliminary or final plat. The time periods prescribed herein within which a Planning Board must take action on a preliminary plat or a final plat are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the owner and the Planning Board. In the event that the Planning Board fails to take action on a preliminary plat or a final plat within the time prescribed therefore after completion of all requirements under the State Environmental Quality Review Act, or within such extended period as may have been established by the mutual consent of the owner and the Planning Board, such preliminary or final plat shall be deemed granted approval. The certificate of the Town Clerk as to the

date of submission of the preliminary or final plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

J. Filing of final plat; expiration of approval.

- (1) The owner shall file in the office of the County Clerk such approved final plat or a section of such plat within 62 days from the date of final approval or such approval shall expire. The following shall constitute final approval:
 - (a) The signature of the duly authorized officer of the Planning Board constituting final approval by the Planning Board of a plat as herein provided; or
 - (b) The approval by such Board of the development of a plat or plats already filed in the office of the County Clerk of the County in which such plat or plats are located if such plats are entirely or partially undeveloped; or
 - (c) The certificate of the Town Clerk as to the date of the submission of the final plat and the failure of the Planning Board to take action within the time herein provided.
- (2) In the event that the owner shall file only a section of such approved plat in the office of the County Clerk, the entire approved plat shall be filed within 30 days of the filing of such section with the Town Clerk in each Town in which any portion of the land described in the plat is situated. Such section shall encompass at least 10% of the total number of lots contained in the approved plat, and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of § 265-2, Subdivision 2, of the New York State Town Law.

ARTICLE IV
Design Standards

§ 130-14. Construal of provisions.

The design standards and requirements set forth in this chapter shall be observed as minimums by the subdivider in the design of each subdivision within the Town. The Planning Board may require more restrictive standards when necessary to protect health, safety and welfare of the public and where circumstances unique to the property so dictate.

§ 130-15. General site requirements.

- A. Zoning Law compliance. The subdivision shall fully comply with the provisions of the Town of Liberty Zoning Law.
- B. Hazardous areas:
 - (1) Those areas which are subject to such hazards to life, health or property as may arise from fire, flood or noise or are considered to be uninhabitable for other reasons may not be subdivided for building purposes unless the hazards have been eliminated or the plans show adequate safeguards correcting the hazards.

- (2) Information for determining and evaluating potential hazards may include references to historical records, soil evaluations, engineering studies, expert opinions, established standards used by insurance companies and federal, state or local standards, such as, but not limited to, established floodplain lines.
- C. Layout to be comprehensive. All portions of a tract being subdivided shall be taken up in lots, streets, public lands or other proposed uses so that remnants, reserve strips or other landlocked areas are not created. The layout of a subdivision shall also be planned with consideration to existing nearby developments or neighborhoods so that the development is coordinated in terms of traffic movement, drainage and other reasonable considerations, including aesthetic concerns.
 - D. Preservation of natural features. In all subdivisions, care shall be taken to preserve natural features, such as trees, watercourses, views and historical features, which will retain the attractiveness and value of the remainder of the Town. Damming, filling, relocating or other interference with the natural flow of surface water along any surface water drainage channel or natural watercourse shall not be permitted except with the approval of the Town and, where appropriate, the New York State Department of Environmental Conservation.
 - E. Water supply. All subdivisions shall be served with an adequate water supply meeting the following standards:
 - (1) Public water supply.
 - (a) When a proposed subdivision is located within an existing water district or where a public water supply is available within 1,000 feet of the proposed subdivision, the subdivider shall, if technically feasible, construct a system of water mains tied to such system and provide a connection for each lot.
 - (b) Plans and specifications for extension of an existing system shall be prepared by a licensed professional engineer and shall conform to the requirements of the New York State Department of Health and Chapter 144 of the Town of Liberty Code.
 - (c) Suitable agreements with the water district shall be made for design, specifications, construction, ownership and maintenance of such distribution system and copies thereof provided to the Planning Board for review and approval prior to final approval of the subdivision.
 - (d) All public water supply system installations and testing thereof shall be inspected by the Chief Water and Wastewater Treatment Plant Operator or his designee before any backfilling of lines, unless the subdivider shall have provided for full-time inspection by a licensed professional engineer. A licensed professional engineer's certification shall be required prior to dedication of improvements to the Town.
 - (2) Community water supply systems.
 - (a) Where it is proposed to provide water supply to a subdivision by constructing a new or connecting to an existing private community water supply, the subdivider shall have plans and specifications, conforming to accepted

engineering practices, prepared by a licensed professional engineer. The system shall be designed to furnish adequate main sizes and, where necessary, fire hydrants located to meet the specifications of the Association of Fire Underwriters and applicable fire district requirements. Adequate documents providing for the ownership and maintenance of such system shall be developed and copies thereof provided to the Planning Board for review and approval prior to final approval of the subdivision.

- (b) The applicant must demonstrate ability to provide a minimum of 150 gallons of water per capita (GPCD) or 400 gallons per day (GPD) for each single-family residential dwelling unit or equivalent to be serviced. Service to industrial or commercial establishments shall meet standards established by the American Water Works Association or insurance industry underwriting standards.
 - (c) New community water supply wells shall be sited, drilled and tested under the direct supervision of a licensed professional engineer or a professional groundwater geologist.
 - (d) All community water system installations and testing thereof shall be inspected by the Chief Water and Wastewater Treatment Plant Operator or his designee before any backfilling of lines, unless the subdivider shall have provided for full-time inspection by a licensed professional engineer. A licensed professional engineer's certification shall be required prior to final approval of the subdivision.
 - (e) Performance guarantees shall accompany a final plat application involving a community water supply system. Any such guaranty must be provided pursuant to a written security agreement with the Town, approved by the Town Attorney as to form and manner of execution and by the Town Engineer as to sufficiency.
 - (f) Where a community system is to be transferred to a property owners association (POA), the Town Board shall be satisfied that the POA possesses the administrative and financial ability to operate and maintain such system before the performance guarantee is released.
- (3) On-site water supply systems. On-site water supply systems shall meet applicable New York State Department of Health guidelines.

F. Sewage disposal systems.

- (1) Public sewage systems.
 - (a) When a proposed subdivision is located within an existing sewer district or when a public sewage disposal system is located within 1,000 feet of the proposed subdivision, the subdivider shall, if technically feasible, provide a system of collection lines to connect to said system.
 - (b) Plans and specifications for extension of an existing system shall be prepared by a licensed professional engineer and shall conform to the requirements of the New York State Department of Environmental Conservation and Chapter 121 of the Town of Liberty Code.

- (c) Suitable agreements with the sewer district shall be made for design, specifications, construction, ownership and maintenance of such collection system and copies thereof provided to the Planning Board for review and approval prior to final approval of the subdivision.
 - (d) All public sewage disposal system installations and testing thereof shall be inspected by the Chief Water and Wastewater Treatment Plant Operator or his designee before any backfilling of lines, unless the subdivider shall have provided for full-time inspection by a licensed professional engineer. A licensed professional engineer's certification shall be required prior to dedication of improvements to the Town.
- (2) Community sewage disposal systems.
- (a) Community sewage disposal systems are required for all subdivisions where public sewage disposal systems are unavailable and a licensed professional engineer is unable to certify that soil conditions are suitable for on-site sewage disposal systems meeting New York State Department of Health criteria.
 - (b) All elements of any community sewage disposal system shall be designed and constructed in strict accordance with New York State Department of Environmental Conservation standards, and any permits required thereunder shall be obtained as a prerequisite to final approval of any subdivision.
 - (c) All community sewage disposal system installations and testing thereof shall be inspected by the Chief Water and Wastewater Treatment Plant Operator or his designee before any backfilling of lines, unless the subdivider shall have provided for full-time inspection by a licensed professional engineer. A licensed professional engineer's certification shall be required prior to final approval of the subdivision.
 - (d) Performance guarantees shall accompany a final plat application involving a community sewage disposal system. Any such guaranty must be provided pursuant to a written security agreement with the Town, approved by the Town Attorney as to form and manner of execution and by the Town Engineer as to sufficiency.
 - (e) Where a community system is to be transferred to a property owners association (POA), the Town Board shall be satisfied that the POA possesses the administrative and financial ability to operate and maintain such a system before the performance guarantee is released.
- (3) On-site sewage disposal systems.
- (a) On-site subsurface sewage disposal systems may be utilized for subdivisions located outside sewer districts, provided that suitable soil characteristics are present.
 - (b) Suitable soil characteristics may be demonstrated by either:
 - [1] Submission of a percolation test, performed by a licensed professional

engineer, resulting in a percolation rate of one inch in 60 minutes; or

- [2] Submission of a subsurface septic system design plan, prepared by a licensed professional engineer, meeting the requirements of the New York State Department of Health.

- G. Erosion and sedimentation control. In the event that a subdivider shall intend to make changes in grade, excavate, remove or destroy the natural topsoil or vegetation covering a site in accordance with a subdivision plan, the Planning Board may require an erosion and sedimentation control plan. The erosion and sedimentation control shall be prepared by a licensed professional engineer in cooperation with the Sullivan County Water Conservation District and shall be approved by the Town Engineer.
- H. Storm drainage. In the event that any subdivider shall intend to install public streets or interrupt or change existing drainage courses, the Planning Board may require a storm drainage plan. The storm drainage plan shall be prepared by a licensed professional engineer in cooperation with the Sullivan County Water Conservation District and shall be approved by the Town Engineer.
- I. Lot lines. Lot lines shall follow municipal and County boundary lines rather than cross them. Reserve strips controlling access to lots, public lands or adjacent private lands are prohibited.
- J. Burden of proof. The burden of proving a particular parcel is suitable for subdivision shall be upon the subdivider.

§ 130-16. Lot design.

A. Lots to be buildable.

- (1) The lot arrangement shall be such that, in constructing a building in compliance with the Town of Liberty Zoning Law and New York State Uniform Fire Prevention and Building Code, there will be no foreseeable difficulties by reasons of topography or other natural conditions. All lots intended for single-family residential purposes must contain a buildable portion with a dwelling site and septic system site of not less than 10,000 square feet (5,000 square feet when served by public or community sewer). The buildable portion shall:
- (a) Be positioned so as to allow the sitting of a principal residence meeting all code requirements.
- (b) Have an average slope of 15% or less.
- (c) Be serviced by a public or community sewer system or have suitable soil characteristics so as to permit construction of a subsurface sewage disposal system (septic system).
- (2) Any alteration of existing conditions to overcome the limitations set forth in § 130-16A(1)(a), (b) or (c) must be approved by the Town Engineer.

B. Configuration of lots.

- (1) All side lines of lots shall be at approximate right angles to straight street lines and radial to curved street lines, except where variation to this rule will provide a safer layout or improve the orientation of the lots for purposes of solar access.
- (2) If remnants of land exist after subdividing, they shall be incorporated in existing or proposed lots, unless designated as common area.
- (3) Corner lots shall have a lot width of at least 100 feet on each street. Either of the two sides of a corner lot may be designated as the front, provided that the rear yard shall always be opposite the frontage so designated. All corner lots shall have a curve, with a minimum radius of 25 feet, joining the intersecting street lines.
- (4) All lots shall front on a public street or on a private street, with a minimum right-of-way width of 50 feet, accessing a public street.

§ 130-17. Common open space.

- A. Where deemed essential by the Planning Board, the Planning Board may require the dedication or reservation of certain areas within the proposed subdivision of such character and location as may be suitable to the needs created by such development for schools, parks or other community purposes.
- B. Where dedication is required, in no case shall the Planning Board require more than 10% of the gross area of the entire tract, exclusive of lakes or ponds, to be so dedicated. The minimum area acceptable in fulfillment of this provision shall be three acres.
- C. In cases where the Planning Board finds that, due to size, topography or location of the subdivision, the requirement for land dedication would be unreasonable or undesirable (as in instances where the average lot size is five acres or more or for minor subdivisions), the Planning Board may waive the dedication requirement. Where dedication is waived, the Planning Board shall require that a fee be paid (such fee to be determined from a schedule of fees as adopted by the Town Board from time to time by resolution) for each proposed lot in the subdivision, such monies going into a special fund for the future acquisition or improvement of recreational facilities in the Town.
- D. Common open space areas designated for play lots, parks and other outdoor recreational facilities shall be of a size, shape and other physical characteristics so as to be free of health and safety hazards and suitable for the designated use. Sites so designated and developed and intended for public dedication shall not be deemed to be accepted by the Town until a resolution to that effect is actually passed.

§ 130-18. Street specifications.

- A. Public streets. Streets built for dedication to the Town shall conform to the specifications contained in Chapter 128 of the Town of Liberty Code.
- B. Private streets. Where it is proposed to and approved by the Planning Board to create a subdivision with private street(s) not intended for dedication to the Town of Liberty, the following requirements shall be met:
 - (1) Private streets shall be built to the same standards as those required for public streets

unless different standards are approved by the Town Board.

- (2) Rights-of-way for private streets shall include a grant for easements necessary for the installation of utilities and shall not deny access to such street to any abutting property owner or owner of any lot to which the street is intended to provide access.
- (3) Prior to final plat approval, the Town Board shall review and approve a private road maintenance agreement relative to all proposed private streets.
- (4) The final plat for the subdivision shall include the following statement as to any private streets:

"The street(s) depicted on this plat are private in nature and the Town of Liberty bears no responsibility now or in the future for their maintenance. Responsibility for maintenance is specified in a private road maintenance agreement."

- (5) No building permits shall be issued by the Town for any structure within a subdivision served by a private street until final plan approval has been granted and the street has been constructed and inspected by the Town Engineer and found to meet the specifications as approved by the Town Board.
- (6) Designation of streets as private shall not exempt the subdivider from any other requirements of this chapter.

ARTICLE V Miscellaneous

§ 130-19. Pending violations.

No minor subdivision shall be given approval and no major subdivision shall be given preliminary approval if the land to be subdivided is subject to violations of the Town Code or the New York State Uniform Fire Prevention and Building Code.

§ 130-20. Commercial and industrial subdivisions.

- A. Application. In addition to all other requirements imposed by this chapter, all commercial and industrial subdivisions shall comply with the requirements of this section.
- B. Street systems.
 - (1) Traffic movements in and out of commercial and industrial areas should not interfere with external traffic nor should they create hazards for adjacent residential areas.
 - (2) The design of streets, service drives and pedestrianways should provide for safe and hazard-free internal circulation of truck traffic, including provision for fire lanes where appropriate.
 - (3) The points of ingress and egress shall be designed so as not to require commercial or industrial truck traffic to pass through residential areas insofar as possible.
- C. Block layout. Block layout shall conform, with due consideration of site conditions, to the best possible service to customers, traffic and parking circulation and pickup and delivery

services. In no case shall a block length be less than 600 feet.

- D. Size. Lot sizes shall be based on the following factors:
- (1) The total lot area shall be sufficient to provide adequate space for off-street parking and loading.
 - (2) The total lot area shall be sufficient to separate potentially incompatible uses and allow for proper landscaping of the site.
 - (3) Whenever possible, commercial parcels should include enough land to provide for a group of commercial establishments planned, developed and operated as a unit.

§ 130-21. Limited waiver of Zoning Law requirements. [Added 7-7-2003 by L.L. No. 1-2003]

- A. This section is enacted pursuant to the authority of Chapter 365 of the Laws of 1976, which added a new Subparagraph (3) to Paragraph d of Subdivision 1 of § 10 of the Municipal Home Rule Law authorizing towns to adopt a local law which amends or supersedes any provision of the Town Law in relation to property, affairs or government of the Town or in relation to any of the other enumerated subject matters in such § 10 unless there is a state legislative restriction on such amendment or supersession.
- B. In order to permit the Planning Board to expeditiously process, review and determine applications for approval of minor subdivisions, it is deemed advantageous by the Town Board of the Town of Liberty to enact this section superseding Subdivision 3 of § 277 of the Town Law to provide authority to the Planning Board to waive certain and limited dimensional requirements of the Town of Liberty Zoning Law with respect to lots in residential minor subdivisions.
- C. Subdivision 3 of § 277 of the Town Law is hereby superseded in its application to the Town of Liberty by amending the same to read as follows:

3. Compliance with zoning regulations. Lots shown on subdivision plats shall at least comply with the requirements of the Town of Liberty Zoning Law; subject, however, to the provisions of § 278 of this article and subject, however, to the authority hereby granted to the Town of Liberty Planning Board to waive, when reasonable, with respect to subdivision plats for residential minor subdivisions, the lot width and/or lot depth requirements provided in the Town of Liberty Zoning Law.

- D. Any waiver granted by the Planning Board may be subject to such conditions as the Planning Board may determine reasonably necessary to promote public health, safety and general welfare.
- E. This section shall not be construed as the exercise by the Town Board of the Town of Liberty of its power to authorize the Planning Board to approve cluster developments pursuant to § 278 of the Town Law.
- F. This section shall be construed to supersede, with respect to the consideration and approval of minor subdivisions only, the provisions of §§ 130-5B, 130-15A and 130-16 of this chapter.