

APPENDIX A

Recommended General Land Use Regulation Revisions and Zoning Map

Recommended General Land Use Regulation Revisions (for review and discussion only)

The Town of Liberty Code shall be amended as follows:

1) To add a new § 84-9A as provided below:

§ 84-9A Minor Impact Uses.

Minor impact uses listed for IC, SC and RD Districts shall be processed as Principal Permitted Uses, notwithstanding their classification on the Schedule of District Regulations and provided the uses are allowed in the district as Special Uses. The following factors shall be applied to determine if a use will qualify as a minor impact use. The determination shall be made by the Town of Liberty Planning Board.

- A. The proposed activity shall use less than 5,000 square feet of building floor area.
- B. The proposed use shall not involve the outside storage of materials or supplies except for minor incidentals and a maximum of three (3) vehicles used in everyday service on behalf of the business.
- C. Regardless of its classification, the proposed use shall comply with landscaping, parking, sign and other performance standards and shall not involve any activity which could be construed as a junkyard within the meaning of this Code.
- D. The activity shall not cause a nuisance to surrounding property owners; adversely impact the peace, health, or safety of neighborhood residents; or cause a deviation from the character of the neighborhood. Factors for evaluating this standard shall be:
 - 1. Traffic - whether or not the business is generating traffic that is excessive and/or detrimental to the neighborhood. A Minor Impact Use will be allowed to generate no greater than one-hundred (100) vehicle trips per day, based on estimates provided by the Institute of Transportation Engineers. However, based on the characteristics of a specific neighborhood, these amounts may be lowered or raised, at the discretion of the Planning Board. The factors which shall be used for such a determination include, but are not limited to, pertinent characteristics of the neighborhood such as width of properties, width of the streets, hills, curves, the number of children present and the ability to secure a highway occupancy permit.
 - 2. Parking - whether or not parking problems could result from the use. Factors shall include, but not be limited to: 1) except for special gatherings, parking required for the business shall be provided on-site or be limited to the area along the frontage of the property on the street; 2) parking on the property shall be on a surface equal in quality to the paving surface of any existing driveway unless there is no surface other than the ground, in which case a gravel surface shall be provided; and 3) no minor impact use shall be permitted which requires parking of tractor-trailer combinations along the street on a continuing basis.
 - 3. Nuisance - whether or not the use is causing a nuisance to surrounding property owners or is deviating from the character or appearance of the neighborhood.

No minor impact use, having once been permitted or established, shall be added to, expanded, enlarged or otherwise increased or changed substantially in character without complying with this Code. Any addition or expansion which takes a use above the upper limits established for a minor impact use shall be processed as a Special Use.

2) To add a new § 84-20A as provided below:

§ 84-20A Communication Structures.

- A. Special Definitions.

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ANTENNA - A device of forty-five (45) or more feet in height used to collect or transmit telecommunications or radio signals. Examples are: panels, microwave dishes, and single pole known as whips. This definition is not meant to include home television or amateur radio apparatus.

TELECOMMUNICATIONS FACILITY - Consists of the equipment and structures involved in receiving or transmitting telecommunication or radio signals, but limited to those facilities with respect to which the State and Federal governments have not, under public utility laws, strictly pre-empted the Town of Liberty from regulating.

TELECOMMUNICATIONS EQUIPMENT BUILDING - The building in which the electronic receiving and relay equipment for a telecommunications facility is housed.

TOWER - A structure that is intended to support equipment used to transmit and/or receive telecommunications signals. Examples of such structures includes monopoles and lattice construction steel structures.

B. Design and location standards. The following design and location standards shall apply to all telecommunications facilities:

- (1) The location of the tower and equipment building shall comply with all natural resource protection standards of this ordinance.
- (2) An evergreen screen consisting of a row of eight (8) feet high evergreen trees planted ten (10) feet on center maximum, shall be located around the perimeter of the security fence. The Town of Liberty may, however, modify or waive screening requirements if the site is entirely or partially wooded so as to provide existing screening.
- (3) An eight (8) foot high security fence shall completely surround the tower (and guy wires if used) and equipment building.
- (4) The tower and antenna shall be designed and constructed to all applicable standards of the American National Standards Institute, TAI/EIA-222-F manual, as amended, and withstand wind gusts of up to 100 miles per hour.
- (5) A soil report prepared by a Professional Engineer shall be submitted to the Town of Liberty to support the design specifications of the foundation for the tower, and anchors for the guy wires, if used.
- (5) An antenna may not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.
- (6) Telecommunications facilities shall be permitted as a sole use on any lot in a AC, RD, IC or SC District subject to Special Use procedures and the following:
 - (a) Minimum lot size. Five (5) acres
 - (b) Minimum yard setback requirements. Two-hundred (200) feet
 - (c) Maximum height. Tower - Two-hundred (200) feet
 Equipment building - Thirty (30) feet

Provided no residences directly adjoin the site, minimum setback requirements may be reduced to the fall-down limit plus fifteen (15) feet, where the net effect of requiring the full setback would be to necessitate additional lighting or tower height. Maximum height requirements may be exceeded, provided such height can be demonstrated to be absolutely necessary and the additional height is matched with an equal amount of additional setbacks on all sides.

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- (7) A telecommunications facility shall be permitted on a property with an existing use subject to the following conditions:
 - (a) The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
 - (b) Minimum lot area. The minimum lot area required above shall apply, provided the land remaining for accommodation of the principal use on the lot shall also continue to comply with the minimum lot area for the district.
 - (c) Minimum setbacks. The minimum yards required above shall apply, provided the land remaining for accommodation of the principal use on the lot shall also continue to comply with the minimum yards for the district.
 - (d) Access. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
 - (e) Maximum height:
 - Tower - Two-hundred (200) feet
 - Equipment building - Thirty (30) feet
- (8) Where an antenna for a telecommunications facility is to be attached to an existing structure or building it shall be subject to the following conditions:
 - (a) Maximum height. Fifty (50) feet above the existing building or structure.
 - (b) If the applicant proposes to locate the telecommunications equipment in a separate building, the building shall comply with the minimum setback requirements for the subject zoning district, an eight (8) foot high security fence shall surround the building, a buffer yard shall be planted as required above and vehicular access to the building shall not interfere with the parking or vehicular circulations on the site for the principal use.
 - (c) Elevations of existing and proposed structures showing width, depth, and height, use statistical data on the antenna and support structure shall be presented.
 - (d) The antenna shall be camouflaged or otherwise designed to be aesthetically compatible with the existing architectural and natural environment.
- (9) Notwithstanding minimum setbacks provided for above, any tower shall be setback from all property lines a distance that is at least equal to the height of the tower. The tower shall also be setback from any active recreation facilities or fields a distance that is at least equal to the height of the tower.
- C. Plan Review Criteria. Communications facilities shall be subject to all the ordinary review criteria applicable to Special Uses plus the following:
 - (1) The applicant shall demonstrate that the tower for the communications facility is the minimum height necessary for the service area and that the site chosen is the one which will afford the opportunity to construct the lowest height communications tower possible, taking into consideration all lands available within a reasonable distance including those which may lie within adjoining municipalities.
 - (2) The applicant shall present documentation that the tower is designed in accordance with the standards of this Code for communications towers.
 - (3) The applicant shall demonstrate that the proposed tower adequately addresses all aspects of

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aviation safety in view of known local aviation traffic as well as FAA requirements.

- (4) The need for additional buffer yard treatment shall be evaluated. Proximity of the communications structure to existing or platted residential properties shall be considered in applying such requirements. Existing trees on the site which serve to provide a natural buffer shall be preserved unless absolutely required to be removed for purposes of access or safety.
 - (4) The applicant shall provide visual depictions or studies to indicate how the communications facility will appear once constructed in relation to the surrounding natural environment and from the perspective of adjacent or nearby residents as well as travelers.
 - (5) Where the telecommunication facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement for the proposed facility and that vehicular access is provided to the facility.
 - (6) Free-standing pole-type communications structures shall be given preference over towers supported by guy wires.
 - (7) All communications structures shall be lighted for safety in a manner consistent with industry best practices and where lighted additional setbacks may be imposed to shield adjacent properties from the effects of such lighting.
 - (8) All property owners and adjacent municipalities within five-hundred (500) feet of the outside perimeter of the communications structure, including guy wires, shall be notified by certified mail prior to the Planning Board making a recommendation on an application for Special Use approval for such a structure. This responsibility shall be the applicant's and such applicant shall provide proof of notification as part of their final application.
 - (9) Should any tower cease to be used as a communications facility, the owner or operator or then owner of the land on which the tower is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Town of Liberty to remove the facility and charge back the cost of removal to the foregoing parties. The Town of Liberty may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
 - (10) An applicant for approval of a communications structure shall include with the application evidence of written contact with all wireless service providers who supply service within the Town of Liberty for the purpose of assessing the feasibility of co-located facilities. Should co-location not be feasible, the applicant shall demonstrate that a good faith effort has been made to mount the antenna on an existing building or structure, including proof of contacts, building investigations and similar evidence. Should such efforts fail to result in a suitable site, a new communications tower may be permitted, but shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.
- 3) To add a new § 84-20B as provided below:

§ 84-20B Landscaping Standards.

- A. The Planning Board shall, to assure an acceptable buffer between adjacent residential and non-residential uses and create a healthy, safe and aesthetically pleasing environment in the Town, require a landscape plan be prepared as part of any Special Use application. Such a plan shall also be required whenever any non-residential use is proposed in any district so as to buffer parking areas and buildings from the highway, each other and other uses.
- B. The landscape plan shall specify locations of all mature shade trees or other species of six (6) inch caliper or greater and indicate existing vegetation to be removed or preserved. It shall demonstrate

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how building materials, colors, and textures will be blended with the natural and man-made landscape. It shall also include visual depictions of the proposed landscape from the perspective of persons who will view the site from the highway or adjoining properties. Specific locations, varieties, sizes, winter hardiness, and schedules for all proposed plantings shall, too, be provided as part of the plan.

- C. Landscape plans shall be prepared by a licensed landscape architect or other design professional qualified to perform such services and include consideration of all man-made and natural features, including signs.
- D. The Planning Board, in reviewing a landscape plan, may employ the assistance of design professionals including representatives of landscape supply firms and seek the non-binding advice of interested civic organizations concerned with community beautification. The Board shall also specifically consider the following before approving, approving with modifications or disapproving the Special Use:
- (1) The plan should promote attractive development, preserve existing vegetation to the maximum extent possible, enhance the appearance of the property and complement the character of the surrounding area.
 - (2) The plan should use landscaping to delineate or define vehicular and pedestrian ways and open space.
 - (3) The plant material selected should be of complementary character to buildings, structures and native plant species and be of sufficient size and quality to accomplish its intended purposes. Materials employed near utility lines shall be of a size compatible with maintenance of such lines.
 - (4) The plan should effectively buffer the activity from adjoining land uses as may be necessary and soften the impact of other site development as contrasted with the natural environment.
 - (5) The plan should be realistic in terms of maintenance and use materials which, as a minimum, are winter hardy to Zone 4.
- E. Landscaping Standards. All new landscaping required shall meet the following minimum specifications:
- (1) The minimum branching height for all shade trees shall be six (6) feet.
 - (2) Shade trees shall have a minimum caliper of three (3) inches (measured 4 feet above grade) and be at least twelve (12) feet in height when planted.
 - (3) Evergreen trees shall be a minimum of six (6) feet in height when planted.
 - (4) Shrubs shall be a minimum of 24" in height when planted. Hedges shall form a continuous visual screen within two (2) years after planting.
 - (5) A buffer screen at least fifteen (15) feet in width along any residential lot line shall be provided. It shall include, at a minimum, an opaque wooden stockade fence six (6) feet in height and one (1) evergreen tree for every fifteen (15) linear feet of property line. An additional row of evergreens meeting these standards and off-set such that each row serves to place trees between the gaps of the other, shall be permitted as a substitute for the stockade fence.
 - (6) A landscape strip at least fifteen (15) feet in width, that includes at least one (1) deciduous tree for every 35 linear feet of perimeter lot line shall be required for any non-residential use. Such deciduous trees shall also be accompanied by smaller shrubs and ground cover as may be required to effectively separate and buffer the activity from the highway but still allow for visibility of the use. The width of this buffer may be reduced along the rear and side lot lines

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for good cause, but not along the front lot line.

- (7) All lot area (except where existing vegetation is preserved) shall be landscaped with grass, ground cover, shrubs, or other appropriate cover.
 - (8) The preservation of mature shade trees shall be required unless there is no alternative but to remove them. These may be used to meet requirements of this section provided the Code Enforcement Officer or Planning Board, as the case may be, determines the purpose of this section is achieved.
- F. Where it is determined that a proposed Special Use would not have a significant impact on the natural environment, adjoining landowners or the view from a public highway, these requirements may be appropriately modified but not be waived unless no new construction is involved.
- G. A performance guarantee in the amount of one-hundred-twenty-five percent (125%) of the cost of materials and installation may be required to assure that all landscaping survives in a healthy condition one (1) full year. The Code Enforcement Officer or Planning Board, as the case may be, shall determine the amount of the guarantee and consider financial impacts of this requirement on the project. The Code Enforcement Officer shall have the right to enter upon the property to inspect the landscaping and, after notifying the owner of any deficiencies, to require that the guarantee be used to pay for the replacement of any dead, dying, diseased, stunned or infested plant materials.
- H. All applicable requirements of these landscaping regulations shall be fully met prior to the Code Enforcement Officer granting a Certificate of Occupancy for a new building or use subject to these regulations.
- 4) To revise § 84-16 to read as provided below:

§ 84-16 Parking, Loading, Access and Traffic Standards.

- A. Off-street parking, loading and unloading facilities shall be provided as necessary in connection with every use. Single-family and two-family residential uses shall be provided with two (2) off-street parking spaces per dwelling unit. Parking needs with respect to all other uses shall be determined in conjunction with site plan review. The amount of parking required shall be based on the following factors:
- (1) Industry studies of parking needs for the type of use proposed or actual case-study comparisons for projects of similar character. The Planning Board may require the developer or applicant to gather and submit such data in support of its proposed parking provisions.
 - (2) The characteristics of the proposed customers, residents, occupants or visitors to a given facility. Housing for the elderly would, for example, require fewer spaces per dwelling unit than time-shared recreational units, though the number of dwelling units might be the same.
 - (3) The expected occupancy rates, traffic levels and numbers of employees in connection with any enterprise and the degree to which these directly relate to parking requirements.
 - (4) Recommendations, if any, from other public agencies or information sources which suggest, based on experience, the appropriate amount of parking in connection with a given use.
 - (5) The likelihood that parking will be shared with adjoining facilities, the impact of daily peak visitation or use periods on demand and the hours of operation as compared to other neighborhood activities.
 - (6) Where industry standards are inadequate for the particular use or site involved or such standards are unavailable, the following standards may be applied by the Planning Board or Code

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Enforcement Officer, as the case may be:

- (a) Home occupations 1 space per 100 sq. ft. of floor area devoted to use
 - (b) Hotels/motels 1 space per rental room
 - (c) Industrial uses 1 space per 400 sq. ft. floor area
 - (d) Commercial uses 1 space per 250 sq. ft. floor area
 - (e) Places of public assembly 1 space per 5 seats
 - (f) Offices 1 space per 300 sq. ft. floor area
 - (g) Restaurants 1 space per 50 sq. ft. floor area
 - (h) Auto service stations 4 spaces plus 1 per employee
- B. Each parking space shall consist of not less than an average of two hundred seventy (270) square feet of usable area for each motor vehicle, including interior aisles connecting the parking space with a street or alley. Individual parking spaces shall be no less than nine (9) feet wide and eighteen (18) feet long with a minimum aisle width of ten (10) feet for access to the space. Garages, carports, and driveways not in the public right-of-way may be considered parking spaces.
- C. Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways.
- D. All parking areas which are designed to accommodate twelve (12) or more vehicles shall be landscaped using materials of sufficient growth and height to aesthetically balance the impact of the open paved area and provide effective stormwater control. The following minimum layout standards shall apply:
- (1) No more than twelve (12) parking spaces shall be allowed in a continuous row uninterrupted by landscaping. Raised planting beds shall be located at intervals of twelve (12) spaces and at the end of each row. Such beds shall be a minimum of five (5) feet in width and each planted with at least one (1) shade tree of 3-1/2 inch caliper. The remainder of the bed shall be surfaced with flowers, grass, groundcover, low maintenance shrubs and/or mulches (no crushed stone or chips).
 - (2) Planting beds meeting the above standards shall also be required along the perimeter of all parking areas and between parking areas and buildings. The area between a parking area and any building shall be a minimum of ten (10) feet in width, however.
 - (3) No parking areas shall be designed such that a vehicle might directly back out onto a public highway or through road within the development. Traffic flows through a parking area shall be minimized and limited to connections from one lot to another and to the public highway or through road.
 - (4) All parking spaces associated with commercial uses shall be located not more than three-hundred (300) feet distant from the nearest entrance to the inside of the structure wherein the enterprise is situated.
 - (5) Parking areas shall generally be located in the rear yard of any use, with the principal building situated at or near the front lot line. This is for the purpose of maintaining the continuity of the building line along any highway and avoiding the effective merger of parking areas along a highway into one mass of pavement where entrances and exits become difficult to identify.

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- E. Any building erected, converted or enlarged for commercial, office, manufacturing, wholesale, institutional or similar uses shall, in addition to the off-street parking space required above, provide adequate off-street areas for loading and unloading of vehicles. Public rights-of-way shall, under no circumstance, be used for loading or unloading of materials. The minimum size loading space shall be sixty (60) feet in depth and twelve (12) feet in width, with an overhead clearance of fourteen (14) feet.
- F. Access to and from all off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well defined common entrances and exits and shall comply with the following provisions:
- (1) Access drives shall not open upon any public right-of-way within (80) feet of the nearest right-of-way line of any intersecting public street or highway or where the sight distance in either direction would be less than two-hundred (200) feet. Access drives onto state and county highways shall be subject to New York State Department of Transportation and Sullivan County Department of Public Works standards, as the case may be.
 - (2) There shall be no more than one entrance and one exit to any business or parking area on any one highway unless safety considerations should demand it. Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits. In no case shall one entrance and exit be located within 80 feet of any other on the same property or adjoining property along the same public right-of-way. Non-conforming lots, however, shall be exempt from this requirement.
- G. All non-residential parking and loading areas and parallel circulation and service lanes shall be separated from the paving edge of a public thoroughfare or adjoining property lines by a planting strip at least twenty (20) feet in depth.
- H. The Planning Board, at its discretion, may require a traffic impact study with any Special Use application involving an activity likely to generate more than five-hundred (500) trip-ends per day based on the following daily rates:

Residential uses	9.6 trip-ends per dwelling unit
Industrial uses	3.3 trip-ends per employee
Restaurants	7.9 trip-ends per seat
Convenience market	605.6 trip-ends per 1,000 sq. ft. gross floor area
Supermarket	177.6 trip-ends per 1,000 sq. ft. gross floor area
Car wash	108.0 trip-ends per car stall
Offices	6.0 trip-end per employee
Other commercial uses	50.0 trip-ends per 1,000 sq. ft. gross floor area
Institutional uses	4.0 trip-ends per employee
Other uses	See "Trip Generation" - Institute of Transportation Engineers

The study shall examine existing and projected traffic flows before and after development and generally follow the guidelines set forth for such studies by the Institute of Transportation Engineers. Its purpose shall be to ensure that proposed developments do not adversely affect the transportation network and to identify any traffic problems associated with access to the site from the network. It shall identify solutions to potential problems and any improvements needed. The scope of the study shall be approved in advance by the Planning Board with the final product incorporated in the SEQR submission.

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5) To amend § 100 as follows:

§ 100-2 "Definitions" is hereby amended to add definitions for mobile home and modular home, as follows:

MOBILE HOME - A structure, transportable in one of more sections, which is built on a permanent chassis and designed to be used as a dwelling unit when affixed to a permanent foundation or placed on a concrete slab and connected to the required utilities. Mobile home does not include a modular home.

MODULAR HOME - Factory-manufactured housing, subject to the requirements and regulations of the New York State Uniform Fire Prevention and Building Code, in which prefabricated components assembled at the plant are sent to a housing site in two (2) or more pieces, depending on the size and style of said housing, to be joined together to form a complete house on a permanent foundation.

§ 100-7.C is amended to read as follows:

C. Mobile Home Requirements and Facilities.

(1) General Regulations.

- [a] A mobile home may be placed in the Town only after obtaining a mobile home permit and shall require a Certificate of Occupancy before initial occupancy.
- [b] Mobile homes located outside of mobile home parks shall comply with all area and bulk requirements that apply to single-family houses in the same zoning district.
- [c] All mobile homes shall be connected to an adequate supply of potable water; shall be connected to a public sewer system or septic system constructed in accordance with all State, City of New York and local regulations; and shall be connected to all applicable utilities including but not limited to electric power, telephone, propane gas and fuel oil. All of the foregoing connections or services shall be provided to the mobile home within ninety (90) days of issuance of the permit for placement of the mobile home.

(2) Mobile Home Standards. All mobile homes installed in the Town of Liberty shall meet the following minimum requirements.

- [a] All mobile homes hereafter erected in the Town shall have been manufactured in 1980 or thereafter; be Underwriter Laboratory certified; and bear the seal of the United State Department of Housing and Urban Development.
- [b] All mobile homes shall have roofs, with a minimum pitch of three (3) vertical to twelve (12) horizontal.
- [c] All mobile homes shall have not fewer than two (2) means of ingress/egress.

(3) Permanent Placement of Mobile Homes on Site.

- [a] Mobile homes shall be installed on a load-bearing foundation, such as a crawl space or full basement, or placed on a concrete slab with skirting. Skirting shall be installed within ninety (90) days of issuance of the placement permit and be made of a fire-retardant material specifically designed for the application to mobile homes as skirting or consist of a permanently installed masonry wall. Such skirting shall close off the area between the mobile home body and the slab.

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- [b] The skirting shall be capable of removal to provide access to the closed off area or in the case of masonry walls contain two (2) doors or openings on opposite sides of the structure to allow access to the closed off area for maintenance and emergency access.
 - [c] The structure frame of the mobile home must be securely attached to the foundation or concrete slab in four (4) of more locations to ensure stability of the mobile homes.
 - [d] Permanent steps and hand rails shall be constructed at all access points of the mobile home to ensure a safe means of ingress/egress into the dwelling unit.
- (4) Exceptions to Permanent Placement Requirements.
- [a] Construction Field Office. A single mobile home unit may be temporarily located in any zoning district for use as a construction field office, real estate sales office or mobile home sales office. Such offices may not be installed prior to thirty (30) days before the commencement of the relevant project and must be removed within thirty (30) days after the completion of the relevant project.
 - [b] Temporary Placement of Mobile Homes. It shall be unlawful to store any mobile home on any property within the Town of Liberty for a period in excess of thirty (30) days.
 - [c] Prohibited Uses for Mobile Homes. Mobiles homes shall be used for single family dwelling purposes, only. All other uses, including but not limited to use as a warehouse, storage shed, tool shed, outbuilding or garage are prohibited.
 - [d] Non-Conforming Mobile Homes. Any mobile home in existence at the time of the adoption of this local law which is not in full compliance with this Chapter may remain in its existing location but may not be otherwise relocated within the Town. No mobile home previously occupied as a dwelling may be converted to a use prohibited by this Chapter.
- 6) To amend § 93 to read as follows:

§ 93-1. Purpose.

This chapter is enacted for the purpose of establishing minimum health and safety standards for junkyards in the Town of Liberty as well as controlling their location so as to limit problems of incompatibility with other activities. The regulations contained are enacted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 136.1 of the Town Law as well as the Municipal Home Rule Law.

§ 93-2. Jurisdiction and Scope.

This chapter shall apply to all junkyards now existing or hereafter proposed in the Town of Liberty. No junkyard shall be created except in conformance with the standards herein, and all junkyards shall be required to conform to said standards or be removed at the owner's expense.

The following land uses shall be exempt from the requirements of this Chapter provided they are not maintained in the manner of a junkyard and do not include a junkyard operation:

- A. Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.

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- B. Agricultural equipment which is utilized as part of an active farming operation or contractors' construction equipment which is part of an active contracting business.
- C. Automobile repair businesses or automobile, vehicle and equipment sales operations managed by State licensed dealers which do not involve the outside storage of unlicensed vehicles in the manner otherwise identified herein as a representing a junkyard.
- D. Towing businesses which involve the outside storage of no more than (10) vehicles at any one time or any individual vehicle for more than six (6) months and which are completely buffered on all sides by a dense evergreen screen of no less than six (6) feet in height and fifteen (15) feet in width meeting the standards of § 84.20B.E(5).

No right to establish or continue a junkyard operation shall be conveyed by the existence of a State license or the presence of any of the above activities on a site.

§ 93-3. Definitions.

The terms listed below shall be interpreted and are hereby defined as follows:

JUNKYARD:

- A. An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used materials, including but not limited to wastepaper, rags, metal, glass, building materials, house furnishings, machines, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other disposition of the same. Recycling facilities conducted inside a completely enclosed building, except for loading and unloading docks shall not be included.
- B. Any place where two (2) or more old, secondhand, abandoned, partially disassembled, dilapidated or unlicensed vehicles or parts of vehicles, no longer intended or in condition for legal operation on the public highways, are stored outside for any purpose for a period of six (6) months or more. The Town of Liberty Code Enforcement Officer(s) shall determine when a vehicle or part thereof shall meet these conditions and it shall be the burden of the landowner in such instance to demonstrate conclusively, within a period of seven (7) days after notice, that a vehicle is legally operable at the present time if he or she shall disagree with the Code Enforcement Officer's determination.

§ 93-4. License Required.

- A. No person, partnership, association or corporation, being the owner or occupant of any land within the Town of Liberty, shall use or allow the use of such land for a junkyard unless a license has been obtained and maintained as herein provided, which license shall be applied for concurrently with application for site plan review and special use approval pursuant to the Town of Liberty Zoning Law.
- B. The Code Enforcement Officer of the Town of Liberty shall issue a license within ten (10) days after approval of the application by the Town Planning Board pursuant to criteria contained herein and the site plan and special use criteria contained in the Town of Liberty Zoning Law. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Code Enforcement Officer and shall be renewed annually based on an inspection by the Code Enforcement Officer as to continued compliance with the standards of this Law.
- C. No license shall be issued until the Code Enforcement Officer has received;
 - (1) A written application from the applicant on the form provided by the Town Code Enforcement Officer.
 - (2) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.

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- D. The license may be transferred to a new owner of a junkyard provided all of the requirements of this Law are met and provided the Town is so notified.
- E. Any disapprovals shall be in writing and include the reasons therefore. The Code Enforcement Officer shall not issue a license in any instance where the Planning Board has not approved the site plan and given special use approval. If the application is disapproved, the applicant shall have the right to apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules.
- F. The Code Enforcement Officer shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any junkyard.
- G. If the Code Enforcement Officer finds that a junkyard for which a license has been issued, is not being operated in accordance with the provisions of this Law, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within ten (10) days after the service of such order. The Code Enforcement Officer shall, for purposes of determining compliance with this Law, be authorized to make periodic inspections of all junkyards and shall be provided entry to accomplish that task. The Town Board shall specify the frequency of such inspections and set fees to cover costs involved.
- H. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within ten (10) days after the service of such order, the Code Enforcement Officer may suspend such license and the holder of the license shall thereupon terminate the operation of such junkyard.
- I. Any license which is not used for the purpose intended within two (2) years of the date of issuance shall automatically expire.

§ 93-5. Standards Applicable to New Junkyards.

All new junkyards shall conform to the following standards:

- A. If a junkyard is to be located adjacent to a federal aid primary highway, it shall comply with all regulations of the Federal Highway Administration and the New York State Department of Transportation and provide evidence of the same to the Town of Liberty.
- B. Junkyards shall be located no closer than two-hundred (200) feet to an existing public right-of-way or two-hundred (200) feet to any adjoining property.
- C. Junkyards shall comply in all respects with the provisions of the Town of Liberty Zoning Law and be considered a Special Use under said law. Junkyards shall, moreover, be permitted only in IC Districts.
- D. All new junkyards must erect and maintain a eight (8) foot fence or dense natural evergreen screening of at least twenty-five (25) feet in width and otherwise meeting the landscaping standards contained herein along the boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals. Such fence or screening shall also substantially screen the junkyard from public view and otherwise comply with the requirements of § 136 of the General Municipal Law and be maintained and, if necessary, replaced on the order of the Code Enforcement Officer so as to accomplish its original purpose.
- E. No junkyard or portion of a junkyard shall be located on a slope exceeding twelve percent (12%) in grade or so situated on a bluff as to be unscreenable (visible from an adjacent public highway or residence located above or below the level of the junkyard).
- F. No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.

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- G. All dismantling operations shall take place inside an enclosed structure and any parts of vehicles or equipment shall similarly be stored inside an enclosed structure. All vehicles awaiting dismantling or retained for sale or use intact shall be stored in improved parking areas specifically designated for this purpose.
- H. The Planning Board, in acting upon the Special Use application for any new junkyard, shall, in addition to other Special Use criteria, consider aesthetics, storm drainage, erosion and the impact on surrounding property consistent with the demands of § 136-7 and § 136-8 of the General Municipal Law.
- L. Junkyards shall utilize New York DEC approved facilities and procedures for collection and disposal of any hazardous wastes.

§ 93-6. Standards Applicable to Existing Junkyards.

All existing junkyards shall conform to the following standards:

- A. Existing junkyards shall, within a period of two (2) years following the effective date of this chapter shall be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations provided below.
- B. Applications for licenses to continue operating existing junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one (1) year following the effective date of this chapter.
- C. Applications for licenses to continue operation of existing junkyards shall include a site plan prepared by a Professional Engineer depicting the existing operation and any planned improvements as may be required by this chapter.
- D. The plan shall comply with the requirements applicable to new junkyards to the maximum extent practical and shall include provisions for screening of the view of the junkyard from adjacent property as well as the public highway. A six (6) foot high fence or dense screening, etc. along the side and rear boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals shall be required unless physical circumstances would make such fencing wholly impractical.
- E. All fencing must be approved by the Town of Liberty Planning Board and generally must consist of dense evergreen screening of no less than six (6) feet in height. The Town Board shall be responsible for taking measures, including securing injunctive relief, to ensure maintenance of such fencing or screening.
- F. The license application and site plan for the existing non-conforming junkyard shall be processed in a manner identical to that for special use applications under the Town of Liberty Zoning Law and shall include other information as may be required to determine compliance with this chapter. The Planning Board, in acting upon the application, shall consider the following:
 - (1) The impacts of the use on the enjoyment and use of adjoining properties as well as the community as a whole.
 - (2) The degree to which the use can economically be made to comply with requirements for new junkyards.
 - (3) The effectiveness of screening available or to be provided, visibility from the highway and the extent to which the operator's plans address various health, safety and aesthetic concerns.

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- (4) The extent to which dismantling operations can or do take place inside an enclosed structure and whether or not all parts of vehicles or equipment are similarly stored inside an enclosed structure. Likewise, the Board shall consider whether or not vehicles awaiting dismantling or retained for sale or use intact are or will be stored in improved parking areas specifically designated for this purpose.
- G. Existing junkyards shall not be expanded except in conformance with the regulations contained herein for new junkyards, and in no case will any change in an existing junkyard which would lessen its conformity with these regulations be permitted.
- H. No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.

§ 93-7. Site Plan for Establishment or Expansion; Notification of Nonconformity; Fee Schedule.

- A. Any person or persons proposing to establish or expand a junkyard in the Town of Liberty shall prepare site plans of the same to be submitted to the Planning Board under the special use/site plan review procedures of the Zoning Law. Plans shall be prepared by a professional engineer at a scale of one (1) inch equals one-hundred (100) feet or larger. They shall be in sufficient detail to document compliance in every respect with the standards of this chapter.
- B. Existing junkyards shall be identified and notified of any non-conformities with this chapter within sixty (60) days of the effective date of this chapter. The Town of Liberty Code Enforcement Officer shall be responsible for this procedure and shall, additionally, inform all owners of existing junkyards of the action which must be taken to comply with this chapter, the time available to take those actions and the consequences of violations.
- C. The Town Board may establish and, from time to time, revise a fee schedule for junkyard plan submissions.

§ 93-8. Variation of Standards.

Variations to the standards contained herein may be approved by the Town Board upon recommendation of the Town Planning Board and/or Code Enforcement Officer in order to accommodate unusual site conditions.

§ 93-9. Penalties for Offenses.

- A. Any person, partnership, association or corporation who violates any provision of this chapter shall be guilty of an offense against this chapter and subject to a fine of not more than three-hundred-fifty (\$350) dollars. Each day of continued violation after notice thereof shall constitute a separate and distinct violation.
- B. In addition to the above-provided penalties, 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.

§ 93-10. Severability.

Should any section of provisions of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Zoning Revisions to Accompany Junkyard Law:

The Town of Liberty Zoning Law, § 84-4 is hereby amended such that the definition of "JUNKYARDS" shall read as follows:

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"JUNKYARDS - See § 93-3 of this Code."

The Town of Liberty Zoning Law, § 84-4 is hereby amended so as to add a definition of "AUTOMOBILE, VEHICLE AND EQUIPMENT SALES" to read as follows:

"AUTOMOBILE, VEHICLE AND EQUIPMENT SALES - The use of any building, land area or other premise for the display and sale, under license by the State of New York, of new and used automobiles of presently operable condition; panel trucks or vans; mobile homes or trailers; recreational vehicles; or farm and construction equipment; including any warranty repair work and other repair service as an accessory use. This term is meant to include auto sale lots but such lots shall be restricted automobile and non-commercial truck sales. It shall also include other automotive uses as may be allowed in each district. None of these terms, however, shall under any circumstance be deemed to include junkyards, collectors of itinerant vehicles or vehicle dismantling operations for other than routine repairs."

- 7) To amend § 84-4 so as to add the following definitions:

BED & BREAKFAST - A dwelling in which guest rooms with shared bathroom facilities are available for persons, either individually or as families, for specific periods of time, with one or more meals offered.

DAY CARE CENTER - A private or public establishment caring for children on a fee for service basis during working hours, excluding as a rule, overnight stays.

NURSERY SCHOOLS - A private or public establishment enrolling four (4) or more children between the ages of two (2) and five (5) years and where tuition, fees or other compensation for the care and education of children is charged.

LOT WIDTH - The distance between the two side lot lines at the building setback line as established herein or specified on a Town approved plat.

- 8) To amend § 84-16(c)(4) to add to end of the paragraph the following:

No access drive to any non-residential use shall be less than fifty (50) feet in right-of-way or twenty (20) feet in travel way width. Residential access drives may, consistent with Town of Liberty Subdivision Regulations, be reduced to twenty-five (25) feet in right-of-way width and twelve (12) foot travel way, provided that the drive serves no more than two (2) single family dwellings and the parcel is limited to use for no more than two (2) such dwellings at any time in the future unless brought to full subdivision standards as provided herein.

- 9) To amend § 84-20(G)(1) to add item (h) as follows:

The spreading of poultry manure outside of an Agricultural District shall be prohibited between Memorial Day and Labor Day.

- 10) To amend § 84-21; A; to read as follows:

Authority and procedures. Development which provide for single-family dwelling units and permitted accessory uses wherein dwelling units are grouped in sections in order to maximize the amount of common open space and to preserve the natural settings shall be designated as cluster developments. Such proposed developments shall be subject to site plan review, and the Town of Liberty Planning Board shall have the authority, as provided in § 281 of the New York State Town Law, to approve or deny plans for cluster developments in AC, RD, or RS Districts in accord with the standards contained herein and in the Town of Liberty Subdivision Regulations or in a PUD zone in accordance with procedures of Section 84-23. The Planning Board may require plans to be submitted as cluster developments in accordance with § 281 of the New York State Town Law.

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11) To amend § 84-21; C; to read as follows:

Permitted number of units

(1) Within AC, RD, and RS Districts:

The total tract area less:

- (a) All areas within the rights-of-way of any existing or proposed streets; and
- (b) All areas occupied by public utility easements; shall be divided by the minimum lot size applicable to that District and rounded to the nearer whole number of dwelling units permitted.

(2) Within PUD Districts -

Density shall be as provided by gross project density indicated in the Schedule of District Regulations and shall be calculated based on the total tract acres.

12) To amend § 84-21; F; to read as follows:

Open space standards within AC, RD, or RS Districts. No individual parcel of common open space shall be less than one (1) acre except as to roadway median strips, traffic island, walkways, courtyards, play areas, recreation facilities, streams, drainage ways leading directly to streams, historic sites or unique natural features requiring common ownership protection. At least fifty percent (50%) of the common open space shall be usable for active recreational activities and shall not include wetlands, floodplain or slopes over twenty-five percent (25%) in grade.

13) To amend § 84-22; B; to read as follows:

Density. Multiple-dwelling density shall not exceed the number of dwelling units per acre which would be permitted within the district if the parcel on which the units are to be constructed were to be developed for single-family residential use or four (4) dwelling units per acre, whichever is less. Density shall be calculated by taking the total acreage of the development, deducting the following acreages and dividing by the number of proposed units:

- 1. Land contained within public rights-of-way.
- 2. Land contained within the rights-of-way of existing or proposed private streets (where formal rights-of-way are not involved, the width of the street shall be assumed as fifty (50) feet wide).
- 3. Land contained within the boundaries of easements previously granted to public utility corporations providing electrical or telephone service.
- 4. Density within PUD Districts shall be determined by the gross project density indicated in the Schedule of District Regulations and shall be calculated based on the total tract area.

14) To amend § 84-22; C; (4) to read as follows:

At least fifty percent (50%) of the designated recreation area shall be usable for active recreational activities and shall not include swamps, quarries, slopes over twenty-five percent (25%) in grade or acreage used for improvements. Storm drainage facilities are considered improvements and sewage effluent disposal areas shall be excluded.

15) To amend § 84-22; E; (2) to read as follows:

- (2) No structure shall be constructed within fifty (50) feet of the edge of any public road to or through the development or within thirty-five (35) feet of the edge of any private road.

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- 16) To amend § 84-22; E; (7) to read as follows:

Minor projects such as roof overhangs, decks and chimneys shall not be considered part of the building face and may extend within the minimum building to building distance for a distance not to exceed (3) feet.

- 17) To amend § 84-22; F; to read as follows:

Nonresidential uses. Nonresidential uses shall not be permitted in a multiple-dwelling development unless plan as part of a planned unit development. This, however, shall not preclude such ancillary facilities as laundry areas, service buildings, recreational facilities and the like.

- 18) To amend § 84-23; C; (5) so as to read as follows:

Other zoning regulations. With the exception of lot and yard requirements including those outlined in the development standards chart and other standards which may be waived or modified by the Planning Board, the PUD District shall comply with all other provisions of this chapter. No modification or waiving of density standards generally applicable to PUD Districts shall be permitted. Density for nonresidential uses shall be determined on the basis of projected sewage flows, with an equivalent dwelling unit being that amount of flow normally associated with a single-family residential dwelling.

- 19) To amend § 84-25; B so as to read as follows:

Density. Density within bungalow colonies shall not exceed six (6) dwelling units per acre, calculating density in the manner provided in Section 84-22: B pertaining to multiple dwellings.

- 20) To amend § 84-25; D (8) so as to read as follows:

All bungalow colonies shall be served with off-site sewerage facilities and water supplies (as defined in the Town Subdivision Regulations). Effluent disposal areas shall be subject to the set back requirements applicable to other colony structures and improvements. All facilities shall be subject to the approval of the Town of Liberty Water and Sewer Superintendent or Town Engineer and evidence thereof shall be supplied with the application for approval of the use. State approval and evidence thereof shall likewise be required where applicable.

- 21) To amend § 84-20.K to read as follows:

§ 84-20. Adult Oriented Businesses.

Adult oriented businesses, which are permitted Special Uses in RD Business Districts, can have serious negative impacts on surrounding areas, including declines in property values, degradation of neighborhoods, increases in crime and deterioration of community character. This has been substantiated by a number of studies conducted throughout the United States. The Town of Liberty has considered the findings of these studies and those incorporated in the cases of; a) City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); b) Young v. American Mini Theatres, 426 U.S. 50 (1976); and c) Northend Cinema, Inc. v Seattle, 585 P.2d 1153 (Wash.1978). The Town's intent in enacting this section is not to restrict speech protected by the First Amendment but rather to provide for it in a way which is consistent with the demands of the U.S. Constitution, as expressed in the referenced cases. It is also, however, intended to address, in a practical way, the very real secondary affects of adult-oriented businesses on the peace, good order and safety of Town residents. So as to limit these impacts, such uses shall be subject to the following standards:

- A. Because adult oriented businesses can lend themselves to ancillary unlawful and unhealthy activities they shall be separated from other uses which could be severely impacted by their presence or which, in combination with the adult oriented business, accentuate the negative impacts on the area. Adult oriented businesses, therefore, shall not be located within one-thousand (1000) feet of any residence,

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residential facility, institution, health facility, church, synagogue, school, public or semi-public use, public park or recreation facility, any other establishment which sells alcoholic beverages or any other existing adult oriented business. This setback is consistent with the open rural character of the Town within which numerous locations exist that can meet this standard.

- B. Sale of alcoholic beverages at an adult oriented business shall not be permitted unless the business is being operated as a bona-fide restaurant or eating and drinking establishment.
- C. No exterior display or interior display which is visible from outside the business shall be made to identify or portray the type of activity which occurs at an adult oriented business excepting for one (1) approved ground sign not to exceed a surface area of thirty-six (36) square feet for both sides combined. Such sign shall be subject to all other limitations applicable to signs. It shall not incorporate any obscene material but shall be otherwise unlimited as to message.
- D. No non-conforming building or lot shall be used for an adult oriented business. No other existing building, lot or use shall be added to, enlarged, expanded in size or program or converted for purposes of conducting an adult oriented business unless application to do so has been made pursuant to this section and Planning Board approval has been given.
- E. Because they are known to encourage prostitution, increase sexual assaults and attract criminal activity, the following activities shall not be permitted in any adult oriented or other business or any other public place within the Town of Liberty:
 - (1) Public appearance by a person knowingly or intentionally engaged in sexual intercourse, deviate sexual conduct or the fondling of the genitals of himself or another person.
 - (2) The knowing and intentional public appearance of a person in a state of nudity. Nudity means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

These prohibitions are further based on the findings of the U.S. Supreme Court in the case of *Banes v. Glen Theatre*, 501 U.S. 560, 115 L.Ed 2d 504 (1991) and are intended to fulfill purposes identical to those upheld in that case. Moreover, there exists within Sullivan County substantial experience with these activities which indicates they, indeed, have the types of negative impacts on the community that the Indiana statute was designed to address and produce general deterioration of the character of the area in which they were located, leading to commercial and residential blight.

22) To amend § 84-26 through § 84-28 to read as follows:

§ 84-26. Special Use Procedures.

The Town of Liberty Planning Board is authorized, in accordance with Sections 274-a and 274-b of the New York State Town Law, to review and approve, approve with modifications or disapprove Special Uses and site plans connected therewith. Site plan review shall be required for all Special Use permits and such other uses as the Town Board may from time to time designate by local law. The following procedures shall apply:

- A. Preliminary Site Plan. An applicant for a Special Use permit may submit a preliminary site plan for review and advice by the Planning Board. Such a preliminary site plan should provide locations and dimensions of the proposed use in relation to the property boundaries and adjacent uses. It should also indicate all accesses and improvements both existing and proposed and any site features which could have a bearing on the project including the general topography and existing ground cover. This preliminary plan shall be used by the Planning Board as a basis for advising the applicant regarding information it shall require on the site plan before it conducts a public hearing or takes any action with respect to the plan. The Planning Board shall give no approval or disapproval regarding any

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preliminary site plan but may use it to schedule a public hearing, determine if any provisions of this article should be waived or begin its review of the application under the New York State Environmental Quality Review Act ("SEQR").

- B. Application and Site Plan Required. The Planning Board shall be under no obligation to schedule a public hearing or take any action with respect to a Special Use permit application until formal application has been made on forms approved by the Board and a detailed site plan providing the following information has been submitted:
- (1) The location of all existing watercourses, wooded areas, rights-of-way, roads, structures or any other significant man-made or natural feature, if such feature has an effect upon the use of said property.
 - (2) The location, use and floor or ground area of each proposed building, structure or any other land use, including sewage disposal and water supply systems.
 - (3) The location of all significant landscaping and ground cover features, both existing and proposed, including detailed planting plans and a visual depiction or rendering of the final appearance of the property after all landscaping and other physical improvements are completed.
 - (4) The location, dimensions and capacity of any proposed roads, off-street parking areas or loading berths, including typical cross-sections for all paving or regrading involved.
 - (6) The location and treatment of proposed entrances and exits to public rights-of-way, including traffic signals, channelizations, acceleration and deceleration lanes, widenings or any other measure having an impact on traffic safety conditions.
 - (7) The location and identification of proposed open spaces, parks or other recreation areas.
 - (8) The location and design of buffer areas and screening devices to be maintained.
 - (9) The location of trails, walkways and all other areas proposed to be devoted to pedestrian use.
 - (10) The location of public and private utilities, including maintenance facilities.
 - (11) The specific locations of all signs existing and proposed, including a visual depiction of the latter.
 - (12) Preliminary architectural plans for the proposed buildings or structures, indicating typical floor plans, elevations, height and general design or architectural styling.
 - (13) A completed SEQR Environmental Assessment.
 - (14) Any other information required by the Planning Board which is reasonably necessary to ascertain compliance with the provisions of this law.
- C. Waivers. The Town of Liberty Planning Board shall, pursuant to Section 274-a(5) of the Town Law, have the right to waive, when reasonable, any of the requirements of this article for the approval, approval with modifications or disapproval of Special Use permits and site plans submitted for approval. This waiver authority may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare or are inappropriate to a particular site plan. Any such waiver shall be subject to the following conditions:
- (1) No waiver shall result in allowing a use not permitted within the applicable Zoning District.
 - (2) No waiver shall be given with respect to standards outside the scope of this article which would

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otherwise require a variance from the Zoning Board of Appeals.

- (3) Waivers shall be limited to those situations where the full application of the requirements contained herein would generate unnecessary data and create unnecessary costs with regard to deciding the matter at hand, due to the scope or nature of the project involved. The proposed enclosure of a deck or a simple change of use with no significant structural modifications in the case of a commercial property, for example, might not require typical cross-sections for proposed regrading or water supply data.
 - (4) An applicant for site plan approval who desires to seek a waiver of certain of the above-referenced requirements pertaining to such applications shall submit a preliminary site plan as provided above. The Planning Board shall review the preliminary site plan, advise the applicant as to potential problems and concerns and determine if any additional site plan information is required. The Planning Board shall consider such site plan as adequate when, in its judgment, the information submitted is sufficient to make a determination of compliance with the development standards contained herein and the intent of site plan review criteria found below.
 - (5) Nothing herein shall authorize the Planning Board to waive State Environmental Quality Review requirements.
- D. **Hearing and Decision.** The Planning Board shall fix a time, within sixty-two (62) days from the day an application for a Special Use permit or site plan approval is made, for the hearing of any matter referred to under this section. It shall give public notice of such hearing at least five (5) days prior to it in a newspaper of general circulation in the Town and decide upon the application within sixty-two (62) days after such hearing. It shall not, however, do so before a decision has been made with respect to environmental impacts pursuant to SEQR. The decision of the Planning Board shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant within five (5) business days after such decision is rendered.
- E. **Conditions.** The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental the proposed Special Use permit or site plan. Upon approval of said permit and/or plan any such conditions shall be met prior to the actual issuance of permits by the Town. These conditions may include requirements of the applicant to provide parkland or to provide fees in lieu thereof pursuant to Section 274-a(6) of the New York State Town Law.
- F. **Referrals.** The Planning Board is authorized to refer Special Use permit applications and site plans to other agencies, groups or professionals employed or used by the Town for review and comment and to charge the applicant fees for any reasonable expenses connected therewith. The Board shall, in particular, ensure that the requirements of Section 239-m of the General Municipal Law regarding review by the Sullivan County Planning Department are met. It shall also comply with all requirements of the New York State Environmental Quality Review Act.
- G. **Appeals.** Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the town may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.
- H. **Effect of site plan approval.** The site plan as approved by the Planning Board shall be binding upon the applicant. Any changes from the approved plan shall require resubmission and reapproval by the Planning Board. The site plan shall remain effective for a period of two (2) years from the date of approval unless the Planning Board shall have granted an extension.
- I. **Renewal of permits.** The Planning Board may require, at the time it is initially granted, that any Special Use approval be renewed periodically. Such renewal shall be granted following public notice and hearing and may be withheld only upon a determination that the conditions attached to any previous approval have not been met. A period of sixty-two (62) days shall be granted the applicant in such cases to make remedies and bring the use into full compliance with the terms of the Special Use

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approval. Should the applicant fail to make such remedies, the Special Use approval shall be revoked and the use immediately discontinued.

§ 84-27. Site Plan Review Criteria

- A. The Planning Board, in reviewing the site plan, shall consider its conformity to the Town of Liberty Comprehensive Plan and the various other plans, laws and ordinances of the Town. Conservation features, aesthetics, landscaping and impact on surrounding development as well as on the entire town shall be part of the Planning Board review. Traffic flow, circulation and parking shall be reviewed to ensure the safety of the public and of the users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets. The Planning Board shall further consider the following:
- (1) Building design, lighting, location and signs insofar as suitability for the use intended and impact on and compatibility with the natural and man-made surroundings.
 - (2) Storm drainage, flooding and erosion and sedimentation control.
 - (3) Adequacy of community services and utilities including police protection, emergency services and the educational system.
 - (4) Environmental impacts in any form.
 - (5) Impacts on housing availability.
 - (6) The potential for nuisance impacts such as noise, odors, vibrations or glare.
 - (7) The adequacy of the trees, shrubs and other landscaping to buffer or soften a use in terms of visual or other impacts on adjoining property owners, Town residents and those visitors on whom the local economy often depends.
 - (8) Impacts on nearby property values.
 - (9) Any other factors which reasonably relate to the health, safety and general welfare of present or future residents of the Town of Liberty.
- B. The Planning Board, in acting upon the site plan, shall also be approving, approving with modifications or disapproving the Special Use permit application connected therewith taking into consideration not only the criteria contained above but also the following:
- (1) Whether the proposed use will result in an over-concentration of such uses in a particular area of the Town or is needed to address a deficiency of such uses. The Board shall, in this regard, consider the suitability of the site proposed for a particular use as compared to the suitability of other sites in the immediate area.
 - (2) Whether the proposed use will have a detrimental or positive impact on adjacent properties or the health, safety and welfare of the residents of the Town of Liberty.
 - (3) If the proposed use is one judged to present detrimental impacts, whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.
 - (4) Whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation.
 - (5) Whether the granting of an approval will cause an economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies and

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fire-fighting capabilities. The applicant shall be responsible for providing such improvements or additional services as may be required to adequately serve the proposed use and any approval shall be so conditioned. The Town shall be authorized to demand fees in support of such services where they cannot be directly provided by the applicant. This shall specifically apply, but not be limited to, additional fees to support fire-district expenses.

- (6) Whether the site plan indicates the property will be developed and improved in a way which is consistent with that character which this law and the Town's Comprehensive Plan are intended to produce or protect, including appropriate landscaping and attention to aesthetics and natural feature preservation.

§ 84-28. (Reserved)

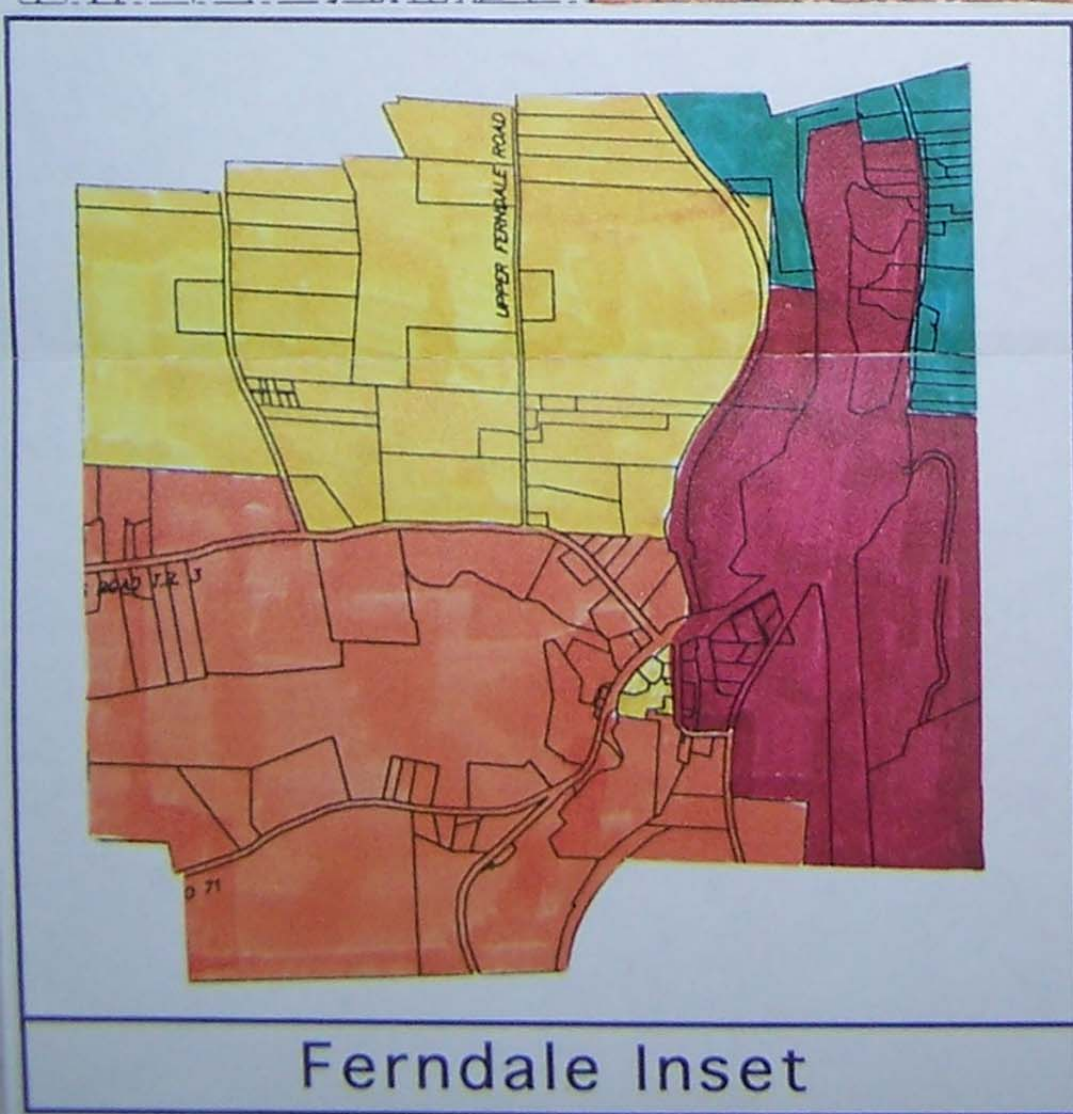
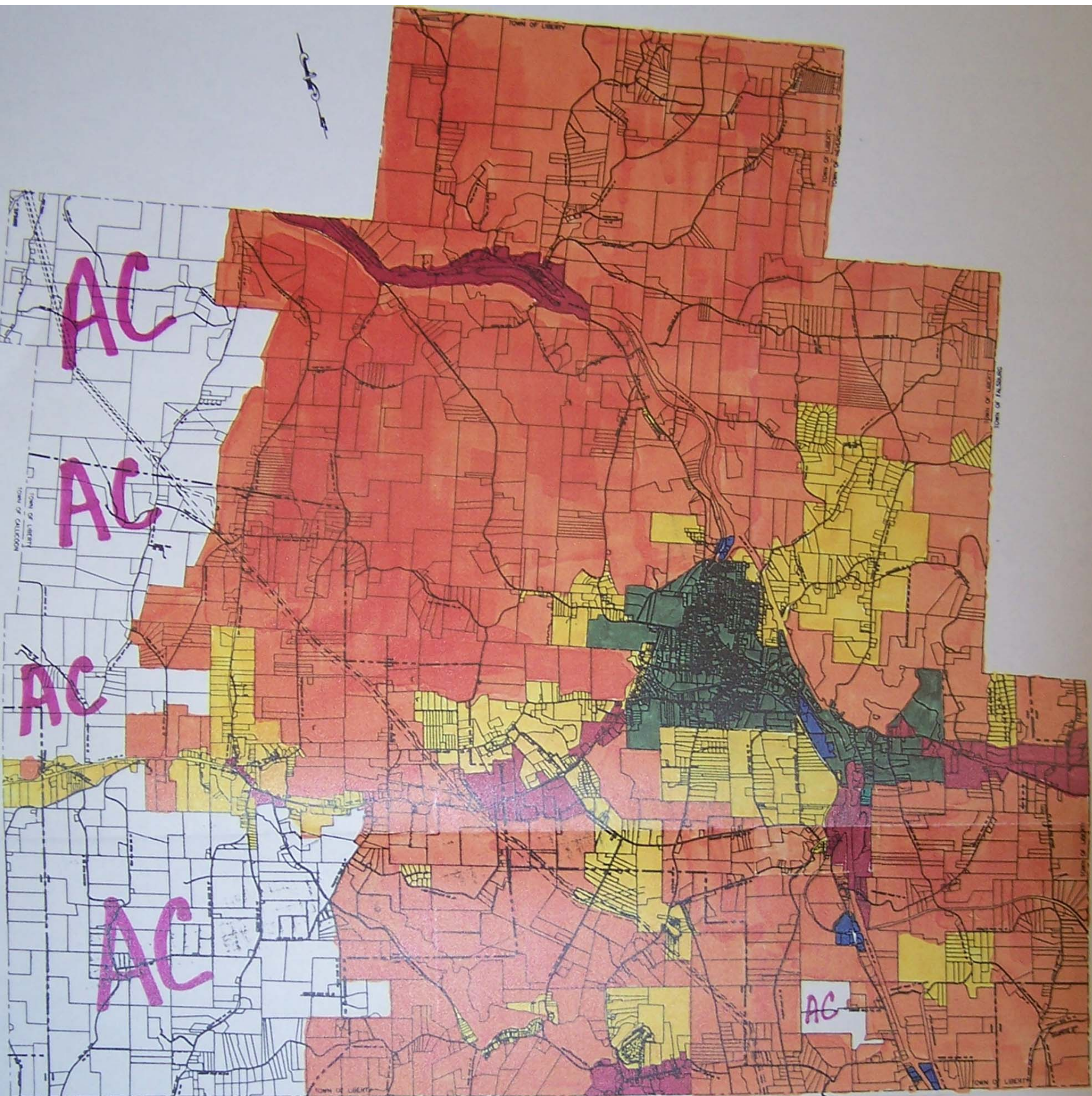
- 23) To revise § 84-28 as provided below.

§ 84-28. Schedule of District Regulations

The restrictions and controls intended to regulate development in each district are set forth in the following Schedule of District Regulations which is then supplemented by other sections of this Law and other laws of the Town of Liberty.

Town of Liberty Zoning Law - Schedule of District Regulations

District Intent	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standards
<p>AC Agricultural Conservation: This district is intended to protect agricultural activities from incompatible uses and complement the New York State Agricultural District Program by encouraging only those forms of development which complement agricultural activities. The district is further intended to preserve sensitive natural areas and ensure they are used in ways which adapt to those limitations and do not threaten the health and safety of adjacent</p>	<p>Boarding homes and bed & breakfasts Dairy, livestock and poultry farming, the raising of crops, vineyards and orchards Greenhouses Hunting and fishing camps and wildlife preserves Kennels Nurseries and tree farms Single-family dwellings, including mobile homes</p>	<p>Animal hospitals Auction barns Cemeteries Commercial stables and riding academies Essential services Farm & garden and feed & fertilizer stores Farm equipment sales and service operations Natural resource extraction & processing Public and semi-public uses Sawmills and other wood product industries Single-family cluster development Shooting ranges Two-family dwellings</p>	<p>Carports and private garages Electronic reception devices Farms stands Gardens Home occupations Parking areas Private stables Signs Silos and grain bins Storage/machinery sheds, barns & coops Swimming pools Other accessory uses customary to principal permitted and special uses</p>	<p>Minimum lot size: 2 acres Minimum lot width and depth: 200 feet Minimum yards: Front 50 feet Side 50 feet Rear 50 feet Maximum building height: 50 feet Maximum building coverage: 20%</p>
<p>RD Rural Development: This district is intended to allow the town to grow while providing a reasonable measure of protection for sensitive areas and encouraging the preservation of open space. It is designed to accommodate growth and a wide range of uses but under carefully controlled conditions protecting the public health and safety, maintaining the rural character of the area.</p>	<p>Boarding homes and bed & breakfasts Dairy, livestock and poultry farming, the raising of crops, vineyards and orchards Funeral homes Greenhouses Hunting and fishing camps and wildlife preserves Minor impact uses Nurseries and tree farms Personal service shops Single-family dwelling, not including mobile homes unless double-wide construction</p>	<p>Animal hospitals and kennels Auction barns Bungalow colonies Business and professional offices Cemeteries Commercial stables and riding academies Convenience retail establishments Day care and nursery schools Essential services Farm & garden and feed & fertilizer stores Farm equipment sales and service operations Golf courses, ski areas and summer camps Manufacturing or industrial enterprises Mobile home parks and sales Multiple and two-family dwellings Natural resource extraction & processing Other commercial recreational facilities Public and semipublic uses Recreational vehicle parks and campgrounds Restaurants and taverns Sawmills and other wood products industries Single-family cluster development</p>	<p>Carports and private garages Electronic reception devices Farms stands Gardens Home occupations Parking areas Private stables Signs Silos and grain bins Storage/machinery sheds, barns & coops Swimming pools Other accessory uses customary to principal permitted and special uses</p>	<p>Minimum lot size: 60,000 square feet Minimum lot width and depth: 200 feet Minimum yards: Front 50 feet Side 25 feet Rear 25 feet Maximum building height: 35 feet Maximum building coverage: 15%</p>
<p>RS Residential Settlement: This district is intended to provide land to meet the anticipated housing needs of the town accommodating both low and medium density residential development as well as other compatible uses, while preserving the residential character of these areas</p>	<p>Single-family and two-family dwellings, not including mobile homes</p>	<p>Cemeteries Essential services Funeral homes Nurseries and tree farms Places of worship Public and semi-public uses Single-family cluster development Vineyards, orchards or raising of crops</p>	<p>Carports and private garages Electronic reception devices Gardens Home occupations Parking areas Signs Swimming pools Other accessory uses customary to principal permitted and special uses</p>	<p>Minimum lot area per dwelling unit: Off-site sewer and water: 10,000 sq. ft. Off-site sewer only: 30,000 sq. ft. On-site sewer and water: 1 acre Other uses: 1 acre Minimum lot width and depth: 100 feet Minimum yards Front 20 feet Side 15 feet Rear 20 feet Maximum building height: 35 feet Maximum building coverage: 15%</p>
<p>PUD Planned Unit Development: This district is intended to provide landowners with the flexibility to develop functionally integrated communities of a residential or resort nature using innovative techniques and open space design principles which ensure the maximum protection of quality open space while achieving density no less than permitted using conventional subdivision procedures and protecting public health and safety.</p>	<p>All uses are special uses</p>	<p>Bungalow colonies Cemeteries Commercial stables and riding academies Convenience retail establishments Essential services Funeral homes Golf courses, ski areas and summer camps Multiple dwellings, not including bungalow colonies Nurseries and tree farms Other commercial recreational facilities Places of worship Public buildings and semi-public uses Recreational vehicle parks and campgrounds Single-family cluster development Vineyards, orchards or raising of crops</p>	<p>Carports and private garages Electronic reception devices Gardens Home occupations Parking areas Signs Swimming pools Other accessory uses customary to principal permitted and special uses</p>	<p>Maximum density: 2 dwelling units or equivalent dwelling units per acre (See §84-23) Maximum building height: 60 feet Maximum lot coverage: 25% Maximum building coverage: 10%</p>
<p>FP Floodplain: This is an overlay district defined by and subject to the requirements of the</p>	<p>Same as district which this district overlays, except as modified by Floodplain Law</p>	<p>Same as district which this district overlays, except as modified by Floodplain Law</p>	<p>Same as district which this district overlays, except as modified by Floodplain Law</p>	<p>Same as district which this district overlays, except as modified by Floodplain Law</p>
<p>IC Industrial Commercial: This district is intended to provide areas for the accommodation of industrial and heavy commercial enterprises and service establishments designed to meet regional needs</p>	<p>Cemeteries Dairy, livestock and poultry farming, the raising of crops, vineyards and orchards Greenhouses Minor impact uses Nurseries and tree farms Single-family dwellings, including mobile homes</p>	<p>Animal hospitals and kennels Auction barns Automobile service stations Building supply businesses Business and professional offices Cemeteries Drive-in theaters Dry-cleaning and laundry plants Junkyards, dismantling and storage of automobiles or other vehicles or equipment Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing, handling or storage of materials Mobile home sales Natural resource extraction and processing Printing businesses Research, design and development laboratories Retail and service establishments Two-family dwellings Vehicle and equipment sales and service Wholesale and warehouse businesses</p>	<p>Carports and private garages Electronic reception devices Gardens Home occupations Parking areas Signs Swimming pools Other accessory uses customary to principal permitted and special uses</p>	<p>Minimum lot size: 1 acre Minimum lot width and depth: 150 feet Minimum yards: Front 50 feet Side 30 feet Rear 50 feet Maximum building height: 60 feet Maximum building coverage: 35%</p>
<p>SC Service Commercial: This district is intended to provide areas within the town for the expansion of existing retail and service establishments and the development of new commercial areas to serve the needs of the area as growth continues</p>	<p>Minor impact uses Personal service shops</p>	<p>Animal hospitals Auction barns Bungalow colonies Business and professional offices Cemeteries Convenience retail establishments Day care and nursery schools Health institutions Hotels and motels Indoor amusement uses such as bowling alleys, theaters and similar uses Manufacturing or industrial enterprises conducted under roof Mobile home sales Other retail and service establishments, not including junkyards or vehicle sales and service operations Places of worship Single-family, two family and multiple dwellings, not including mobile homes Tennis, racquetball, basketball or similar sporting facilities Vehicle and equipment sales and service</p>	<p>Carports and private garages Electronic reception devices Gardens Home occupations Nurseries Parking areas Signs Swimming pools Other accessory uses customary to principal permitted and special uses</p>	<p>Minimum lot size: 10,000 square feet Minimum lot width and depth: 80 feet Minimum yards: Front 20 feet Side 10 feet Rear 10 feet Maximum building height: 40 feet Maximum building coverage: 50%</p>



TOWN OF LIBERTY
Official Zoning Map
 Draft: February 18, 1998

Zoning Districts

AC	Agricultural Conservation
RD	Rural Development
RS	Residential Settlement
SC	Service Commercial
IC	Industrial Commercial

APPENDIX B

Recommended Watershed Protection Provisions

Recommended Watershed Protection Provisions (for review and discussion only)

The Town of Liberty Code shall be amended to add a new § 84-9A as provided below:

§ 84-9B Water Supply Protection Overlay Zones.

- A. Purpose and intent. The purpose and intent of establishing water supply protection overlay zones is to assist in the preservation of public health, general welfare, and safety of the residents of the Town of Liberty and to facilitate the adequate provision of water through the elimination or prevention of groundwater contamination in the vicinity of the well(s) that supply public water and other public water supplies, including the Neversink Reservoir.
- B. Scope and applicability. Water supply protection overlay zones shall be considered as overlaying other existing zones as shown on the zoning map. Any uses not permitted in the underlying zone shall not be permitted in the water supply protection overlay zones. Any uses permitted in the underlying zone shall be permitted in the water supply protection overlay zones, except where the water supply protection overlay zones prohibits or imposes greater or additional restrictions and requirements. In any cases where conflicts arise between these requirements and any other existing regulations, the more restrictive regulations shall apply. Any proposed use or any alteration, reconstruction, or structural change of a nonconforming use or activity wholly or partially within the Water Supply Protection Overlay District, that is required to comply with any additional requirements and standards as contained herein for stormwater runoff, underground petroleum storage, above ground petroleum storage, indoor petroleum storage, hazardous substance storage, floor drains, hazardous waste storage, and/or pesticide/fertilizer storage and application shall be required to secure Special Use approval by the Planning Board prior to the issuance of a zoning permit or a certificate of occupancy by the Code Enforcement Officer. Special Use approval shall also be obtained from the Planning Board for any proposed use or activity that removes 1,000 gallons per day or more from the aquifer within the Water Supply Protection Overlay District. Applicants proposing a use in the Water Supply Protection Overlay District which requires Special Use approval shall include the following in a site plan:
- (1) Map(s), plan(s), and a narrative report completed by an engineer licensed to practice in the State of New York which details the location of the premises and all features of the system necessary for the satisfactory conveyance, storage, distribution, use and disposal of stormwater, process wastes, wastewater, petroleum, hazardous substances and wastes, solid waste, and incidental wastes.
 - (2) A description of the means of water supply. For uses involving withdrawal of groundwater, an estimate of the total daily withdrawal rate.
 - (3) A complete list, including an estimate of the volume in pounds dry weight and liquid gallons, of all petroleum, chemicals, pesticides, fuels and other hazardous substances/wastes to be used, generated, and stored on the premises.
 - (4) A description of proposed measures as required herein to protect all storage containers, or facilities associated with such materials, from vandalism, accidental damage, corrosion and leakage.
 - (5) A description of the procedures for containing and cleaning up a spill of hazardous substances/waste and notifying the Town of Liberty and other appropriate local and state officials of a spill, leak, or other discharge.
 - (6) A description of proposed storage facilities for hazardous wastes and provisions for the disposal of these wastes by licensed waste haulers.

The Planning Board, in reviewing the proposed Special Use application, shall ensure, as an additional review criteria, that it affords adequate protection to prevent contamination and depletion of the groundwater resources within the Water Supply Protection Overlay Districts providing drinking water for private residential wells and municipal wells operated by the Town of Liberty as well as surface waters serving the City of New York. In making such determination, the Planning Board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality and quantity which would result if the control measures failed. In addition, the proposed use must

Recommended Watershed Protection Provisions (for review and discussion only)

comply with all requirements and standards as set for the for the use in the Water Supply Protection Overlay District. The Planning Board may also require changes or additions to the site plan as a condition of approval to safeguard groundwater resources. No building permit and no certificate of occupancy shall be issued unless and until such conditions have been fully met or performed. All improvements to the site shall be completed in strict conformance with the site plan as approved.

C. Water supply protection overlay zones. There are hereby established within the Town of Liberty, two water supply protection overlay zones. These zones are delineated on a map entitled Water Supply Protection Overlay Zones Map filed with the Town Clerk and considered a supplement to the Official Zoning Map of the Town of Liberty (NOTE: THESE MAPS WILL NEED TO BE PREPARED). These zones are described as follows:

- (1) Water Supply Protection Overlay Zone (W-1 Overlay): This zone generally consists of the unconsolidated groundwater aquifer and the immediate, contiguous areas which drain directly into the aquifer area.
- (2) Watershed Protection Overlay Zone (W-2 Overlay): This zone generally consists of the remaining land that contributes surface water runoff to the unconsolidated aquifer and the W-1 Overlay Zone and to the Neversink Reservoir.

If a lot or combination of parcels for which a single development is proposed is wholly or partially within the Water Supply Protection Overlay District and Watershed Protection Overlay District, the provisions of the Water Supply Protection Overlay District and Watershed Protection Overlay District shall apply to all property within such lot or combination of parcels.

D. Definitions. The following special definitions shall apply to activities in the Water Supply Protection Overlay and Watershed Protection Overlay Zone.

Animal Unit - Defined as one (1) slaughter or feeder cow, 1.43 dairy cows, or 0.4 swine.

Aquifer - A geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield adequate quantities of groundwater to wells.

Bulk Storage - Materials stored in large quantities which are usually dispensed in smaller units for use or consumption.

Concentrated Animal Feeding Operation - A feeding operation in which animals are kept for more than forty-five (45) days in a year and there is no vegetation.

Contamination - The degradation of natural water quality as a result of human activities to the extent that its usefulness is impaired.

Deicing Chloride Salt - Any bulk quantities of chloride compounds and other deicing compounds intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. Bulk quantity of chloride compounds means any quantity, but does not include any chloride compounds in a solid form which are packaged in waterproof bags or containers which do not exceed one hundred pounds each.

Disposal - The discharge, deposit, injection, dumping, spilling, leaking, or release by any other means of a substance to the surface or subsurface of the ground, surface waters, or groundwater.

Fertilizers - Any commercially produced mixture generally containing phosphorous, nitrogen, and potassium which is applied to the ground to increase nutrients from plants.

Hazardous Substance - Any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which: (1)

Recommended Watershed Protection Provisions (for review and discussion only)

because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed; (2) poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; (3) because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment.

Infiltration Basin - An impoundment made by excavation or embankment construction to contain water and allow the downward movement of water into the soil.

Hazardous Waste - A waste, or combination of wastes, which are identified or listed as hazardous pursuant to 6 NYCRR Part 371, Identification and Listing of Hazardous Wastes. Hazardous wastes include but are not limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a ph less than or equal to 2.0, alkalies with a ph greater than or equal to 12.5, radioactive substances, pathological or infectious wastes, or any material exhibiting the characteristics of ignitability, corrosivity, reactivity, or EP toxicity.

Herbicides - Any substance or mixture of substances intended for prevention, destroying, repelling, or mitigating any weed, and those substances defined pursuant to Environmental Conservation Law Section 33-0101.

Impervious Surface - Any man-made material, such as pavement used in parking lots or driveways or any building or other structure on a lot, that does not allow surface water to penetrate into the soil.

On-site Consumption - The use of petroleum to heat or cool a residential or non-residential structure, to operate machinery necessary for agricultural activities, or for processing or manufacturing activities. On-site consumption does not include the sale or distribution of petroleum for or into vehicles, except vehicles used only on-site.

Pesticide - Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and those substances defined pursuant to Environmental Conservation Law Section 17-0105.

Radioactive Material - Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials which are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or the United States Nuclear Regulatory Commission.

Secondary Containment - A structure which prevents any materials that have spilled or leaked from primary containment structures, such as piping, tanks or other containers, from reaching the land surface, subsurface, or a water body.

Septage - The contents of a septic tank, cesspool, or other individual wastewater treatment work which receives domestic sewage wastes.

Sludge - The solid, semi-solid, or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.

Solid Waste - Any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities.

Spill - Any discharge of a substance from the containers employed in storage, transfer, processing, or use.

Surface Water Body - Those water bodies which are identified as drainage features (perennial stream or river, intermittent stream, canals, ditches, etc.) lakes, ponds reservoirs, springs, or wetlands on United States

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Geological Survey or New York State Department of Transportation 7.5 -minute topographic maps, United States Department of Agriculture soil survey maps, or wetlands maps by the New York State Department of Environmental Conservation.

Tributary Watershed Zone - The area outside of an aquifer which supplies surface water recharge to the Zone of Contribution and Zone of Influence in the form of overland flow and/or stream flow.

Underground Storage - Storage within a tank or other container which is completely covered with earth or other backfill material.

Wastewater - Aqueous carried waste including, but not limited to, dredge spoil, solid waste, hazardous waste, incinerator ash and residue, septage, garbage, refuse, sludge, chemical waste, infectious waste, biological material, radioactive materials, heat and commercial, industrial, municipal, and agricultural waste.

Zone of Contribution - The area of an aquifer containing ground water that flows toward a pumping well, thus providing recharge to the well.

Zone of Influence - The area of an aquifer where water levels are affected by pumping of a well.

E. Prohibited uses. All uses currently permitted within the respective underlying zoning districts shall be permitted within the water supply protection zones, except that the following activities shall all be prohibited within the Water Supply Protection Overlay Zone (W-1) so as to safeguard groundwater resources which serve as the Town's drinking water supply:

(1) Water Supply Protection Overlay Zone.

- (a) Establishment and/or operation of any solid waste management facility or hazardous waste treatment, storage, or disposal facility, including but not limited to: solid waste storage area or facility; transfer station; rail-haul or barge-haul facility; raw waste landfill; sanitary landfill; solid waste landfill; ash landfill; construction and demolition debris landfill; disposal facility; solid waste incinerator; refuse-derived fuel processing facility; pyrolysis facility; construction and debris processing facility; land application facility; composting facility; surface impoundment; used oil storage, reprocessing, and refining facility; recyclables handling and recovery facility; waste tire storage facility; junkyard; salvage yard; impoundment yard; dump; radiological waste facility; pathological or medical waste facility; or hazardous waste treatment, storage or disposal facility.
- (b) Surface land application of septage, sludge, or human excreta.
- (c) Disposal of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or non-sewage wastewater into or onto land or a surface water body. Uses which commonly dispose of solid waste, petroleum, hazardous substances, hazardous waste, or non-sewage wastewater into or onto land or a surface water body include but are not limited to: appliance/small engine repair shops; auto repair and body shops; boat service; repair, and washing establishments; chemical/biological laboratories; chemical processing/manufacturing plants; cleaning services (dry cleaning, laundromat, commercial laundry); electric/electronic/communications equipment manufacturers; furniture manufacturers/strippers/painters; jewelry and metal platers; machine shops; metal manufacturers/fabricators/finishers; petroleum product refiners and manufacturers; photo processors and printers; and wood preserving/treating establishments.
- (d) Establishment of any of the following: airport; asphalt/concrete/coal tar plant; cemetery; concentrated animal feeding operation with more than 1,000 animal units; fuel oil distributor; gasoline station; golf course; lawn care business; oil and gas drilling and production; pesticide stores; pest control business; road and maintenance depot; and trucking or bus terminal.

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- (e) Outdoor uncovered stockpiling or bulk storage of manure, coal, deicing chloride salts, or artificial fertilizers.
 - (f) Commercial or agricultural use, storage and application of pesticides, herbicides, fungicides, and fertilizers for commercial agricultural purposes without authorization from the New York State Department of Environmental Conservation.
 - (g) Disposal of snow containing deicing salts/chemicals removed from streets, roads, and parking areas and that has been transported from areas outside of the Water Supply Protection Overlay Zone.
 - (h) Construction of commercial pipelines or piping systems that carry petroleum or liquid hazardous substances or waste.
 - (i) Construction of on-site wastewater disposal systems capable of surface or sub-surface discharges of 1,000 gallons or more per day or other wastewater treatment facilities with disposal of primary or secondary effluent within the Water Supply Protection Overlay Zone.
 - (j) Underground storage of petroleum products, hazardous substances, hazardous waste, pesticides and fertilizers.
 - (k) Outdoor, above ground storage of petroleum products, hazardous substances, hazardous waste and pesticides.
 - (l) New mining operations from which earth materials are removed for sale, exchange, or other use except for excavation and grading operations which are conducted solely in aid of on-site construction or farming.
- (2) Watershed Protection Overlay Zone.
- (a) Disposal of snow containing deicing salts/chemicals removed from streets, roads, and parking areas to the area within 100 feet of streams and water courses.
 - (b) Disposal of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or non-sewage wastewater into or onto land or a surface water body. Uses which commonly dispose of solid waste, petroleum, hazardous substances, hazardous waste, or non-sewage wastewater into or onto land or a surface water body include but are not limited to: appliance/small engine repair shops; auto repair and body shops; boat service; repair, and washing establishments; chemical/biological laboratories; chemical processing/manufacturing plants; cleaning services (dry cleaning, laundromat, commercial laundry); electric/electronic/communications equipment manufacturers; furniture manufacturers/strippers/painters; jewelry and metal platers; machine shops; metal manufacturers/fabricators/finishers; petroleum product refiners and manufacturers; photo processors and printers; and wood preserving/treating establishments.
 - (c) Surface land application of septage, sludge, or human excreta.
 - (d) Disposal of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or non-sewage wastewater into or onto land or a surface water body.
 - (e) Establishment of a concentrated animal feeding operation with more than 1,000 animal units.
 - (f) Outdoor uncovered stockpiling or bulk storage of coal, deicing chloride compounds (unless bagged), or artificial fertilizers.
 - (g) Outdoor uncovered stockpiling or bulk storage of manure within 100 feet of a surface water

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body.

- (h) Storage and application of pesticides, herbicides, fungicides, and fertilizers for commercial agricultural purposes without authorization from the New York State Department of Environmental Conservation.
- (i) Construction of wastewater treatment facilities with disposal of primary or secondary effluent within the Water Supply Protection Overlay Zone.

F. Lot coverage.

For each use proposed within the Water Supply Protection Overlay District, the stricter requirement for maximum allowable lot coverage, whether it be specified within the underlying zone or within the requirements for the Water Supply Protection Overlay District, shall apply.

- (1) In the Water Supply Protection Overlay District, the minimum size for on-site wastewater treatment systems (septic systems) shall be 80,000 square feet.
- (2) In the Water Supply Protection Overlay District, the total impervious surface area of each lot shall not exceed the following percentages:

Lot Size (sq. feet)	Lot Size (acres)	Maximum Impervious Surface Area of Lot
7,500 - 14,999	0.15 - 0.34	50%
15,000 - 29,999	0.34 - 0.69	45%
30,000 - 79,999	0.69 - 1.84	40%
> 79,999	> 1.84	35%

G. Stormwater runoff. Proposed uses either the Water Supply Protection Overlay Zone or the Watershed Protection Overlay Zone shall meet the following standards for stormwater runoff:

- (1) There shall be no more stormwater runoff into streams or storm sewers than before development.
- (2) The off-site impacts of erosion and sedimentation from the proposed use shall not be any greater during and following land disturbance activities under pre-development conditions.
- (3) All stormwater runoff from new impervious surface areas shall be recharged to groundwater on-site using infiltration basins, pits, trenches or impoundments in accordance with the design criteria for these stormwater management techniques as described in Chapter 6 of the NYSDEC manual "Reducing the Impacts of Stormwater Runoff from New Development." For commercial/industrial parking lots which produce significant loads of grit and oil, oil/grit separators (water quality inlets) are required to remove sediment and hydrocarbons which would clog soils and lead to failure of the infiltration structure.
- (4) The applicant shall prepare or have prepared a Stormwater Management and Erosion Control Plan using the outline presented in Chapter 4 of the NYS DEC manual "Reducing the Impacts of Stormwater Runoff from New Development."
- (5) Dry wells, infiltration trenches, and infiltration basins shall be used to dispose of stormwater only where other methods may not be feasible, as determined by the Planning Board, due to physical constraints of the site. No such infiltration systems for disposal of stormwater shall be located within 400 feet of a public water supply well.
- (6) Surface infiltration trenches must have grass buffers and dry wells and subsurface infiltration trenches must have oil, grease and sediment traps (water quality inlets) to capture excess loads of sediment,

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- grease, oils, and settleable solids and other objectionable materials including floatable organic materials before stormwater is allowed to enter the infiltration system.
- (7) Dry wells shall be equipped with an accessible cap and underground infiltration trenches shall be equipped with observation well(s). All caps to dry wells and observation wells shall be locked or constructed to prevent vandalism.
 - (8) There must be a vertical separation distance of at least four (4) feet between the bottom of the infiltration system and the season high water table or bedrock. The required separation distance must be verified by test pits/soil borings under the direction on a professional engineer licensed to practice in the State of New York.
 - (9) The following activities shall be exempt from the Stormwater Management and Erosion Control Plan requirements: agricultural activities (including household gardening and timber harvesting) that is not part of a development project; development of less than five single-family or duplex residential dwelling units and their accessory structures in an existing subdivision; development of one single-family or duplex residential dwelling unit not in an existing subdivision; industrial and/or commercial development projects which result in an impervious surface of less than 10,000 square feet; and any maintenance, alteration, use, or improvement of an existing structure which will not change the quality, rate, volume, or location of stormwater discharge or contribute to erosion and sedimentation.
- H. Underground petroleum storage. New facilities for the underground storage of petroleum products, including those for on-site consumption, shall be prohibited in the Water Supply Protection Overlay Zone. Replacement underground petroleum storage facilities shall be permitted if the new storage facilities are of equal or lesser capacity and are installed in accordance with the standards of the New York State Department of Environmental Conservation.
- I. Above ground petroleum storage. New facilities for the outdoor, above ground storage of petroleum products, except for petroleum used for on-site consumption, shall be prohibited in the Water Supply Protection Overlay Zone. Replacement of above ground petroleum storage facilities for other than on-site consumption/use shall be permitted if the new storage facilities are of equal or lesser capacity and are installed in accordance with the standards of the New York State Department of Environmental Conservation. All facilities shall be equipped with the following:
- (1) Double-walled piping or other form of piping secondary containment and a piping leak detection system;
 - (2) Cathodic protection for any steel/iron underground piping;
 - (3) A dike, berm or other secondary containment structure composed of impermeable material which is designed to contain at least 120% of the volume of the largest tank enclosed by the containment structure;
 - (4) Visual gauges to monitor fluid levels and/or high level alarms to warn of an imminent overflow; (j) spill prevention valves;
 - (5) Tank labels; and
 - (6) Security against unauthorized entry into storage areas.
- J. Indoor petroleum storage. Indoor storage facilities for petroleum, except for on-site consumption in residences, household uses (operating lawn care equipment, recreational vehicles, etc.) and storage in original, sealed containers for purposes of resale, shall meet all applicable New York State Department of Environmental Conservation Rules and Regulations for Petroleum Bulk Storage and the following design requirements:

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- (1) Petroleum shall be stored in product-tight closed containers, containers equipped with a lid, or still tanks;
 - (2) All storage areas shall be equipped with a secondary containment structure built of impervious material which is designed to contain at least 120% of the volume of the largest container enclosed by the containment structure;
 - (3) no storage areas shall be located in proximity to floor drains;
 - (4) storage areas shall be secured against unauthorized entry;
 - (5) the tank or containers shall be mounted/stored on a concrete floor or pad;
 - (6) for tanks, visual gauges installed to monitor fluid levels and/or high level alarms to warn of an imminent overflow;
 - (7) for tanks, spill prevention valves; and
 - (8) tank/container labels.
- K. Hazardous substance storage. Proposed uses in the Water Supply Protection Overlay Zone must meet the following standards for hazardous substance, pesticide, herbicide, and fertilizer storage:
- (1) Outdoor, above ground storage of hazardous substances is prohibited in the Water Supply Protection Overlay Zone.
 - (2) Indoor storage areas for quantities of hazardous substances, pesticides, herbicides, and fertilizers that total more than two hundred fifty (250) dry weight or fifty (50) gallons liquid shall meet all applicable federal and state requirements and the following requirements and standards (storage in original, sealed containers for the purpose of resale shall be exempt from items c and d): (a) all products shall be stored in product-tight containers with a lid; (b) each container shall be clearly labeled; (c) drip pans shall be located under the spigots of drums or containers stored in a horizontal position; (d) all storage areas shall be equipped with a pad and a dike, berm or other secondary containment structure built of impervious material which is designed to contain at least 120% of the volume of the largest container enclosed by the containment structure; (e) no storage areas shall be located adjacent to floor drains; (f) absorbent material shall be kept on hand for emergency cleanups and containments; and (g) storage areas shall be secured against unauthorized entry.
 - (3) An accurate log or inventory of hazardous substances on-site shall be maintained.
 - (4) A Spill Control Plan shall be prepared and posted in a conspicuous location. The plans shall contain: a description of operational procedures, a description of potential spill sources, the names and telephone numbers of persons responsible for responding to the spill, the procedures for containing and cleaning up the spill, the procedure for notifying the Town and other appropriate local and state officials.
- L. Floor drains. All floor drains for a proposed use within the Water Supply Protection Overlay Zone shall be connected to an oil and grit separating tank that is connected to the municipal sewer system. Floor drains which are connected to the sanitary sewer must meet discharge limits and permit requirements established by the Wastewater Treatment Plant. Discharge of floor drains to the ground surface, subsurface, or water course, is prohibited.
- M. Hazardous waste storage and disposal. Proposed uses in the Water Supply Protection Overlay Zone must meet the following standards for temporary storage and proper disposal of hazardous waste:
- (1) The owner or applicant of a facility generating hazardous waste shall demonstrate the availability and

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feasibility of temporary indoor storage methods which are in accordance with all applicable local, state, federal laws, and the requirements of this Article for hazardous waste to be produced in quantities greater than those associated with normal household or agricultural use.

- (2) The owner or applicant shall demonstrate that wastes will be properly handled and stored until disposed of at a licensed hazardous waste treatment, storage, or disposal facility by a licensed waste hauler.
 - (3) Temporarily accumulated hazardous waste will be in accordance with all applicable local, state, federal regulations.
 - (4) An accurate log or inventory of hazardous wastes stored on-site shall be maintained, including a description of the waste contained in container, the date of waste generation, the date of removal by a licensed waste hauler, and the name and address of the licensed waste hauler.
 - (5) A Spill Control Plan shall be prepared and posted in a conspicuous location. The plans shall contain: a description of operational procedures, a description of potential spill sources, the names and telephone numbers of persons responsible for responding to the spill, the procedures for containing and cleaning up the spill, the procedure for notifying the Town and other appropriate local and state officials.
- N. Pesticide/fertilizer storage and application. The outdoor uncovered stockpiling or bulk storage of manure is prohibited within 100 feet of a surface water body or within five-hundred (500) feet of a public water supply well in the Water Supply Protection Overlay District. In addition, the underground or outdoor, above ground storage of pesticides and/or fertilizers is also prohibited within the Water Supply Protection Overlay District. In the Water Supply Protection Overlay District, the following standards shall apply to proposed uses regarding the storage, application, and disposal of pesticides and/or fertilizers:
- (1) Areas utilized for the stockpiling or bulk storage of manure and associated agricultural waste from commercial agricultural establishments shall be constructed and maintained in accordance with best management practices such that seepage, leachate, or runoff from stockpiling or storage of animal waste does not cause or contribute to the contravention of a water quality standard.
 - (2) Commercial agricultural storage and use of fertilizers and the land application of manure shall be in conformance to the degree practicable with best management practices as recommended by the Sullivan County Soil and Water Conservation District.
 - (3) Storage, use, and/or application of pesticides must be in accordance with proper certification from the New York State Department of Environmental Conservation.
- O. Site inspections. The Town Code Enforcement Officer is authorized to perform periodic inspections of facilities to ensure that these facilities are in compliance with the requirements and standards of this Article. The owner or the owner's designee shall grant the Codes Enforcement Officer access to the site at a mutually agreeable time within seventy-two (72) hours of notice of inspection.
- P. Nonconforming uses and activities. A nonconforming use or activity within the Water Supply Protection Overlay District shall not be enlarged in size so as to occupy a greater area of land or floor area than was committed to the nonconforming use at the time of enactment of this Article. A nonconforming use or activity within the Water Supply Protection Overlay District shall also not be altered, reconstructed, or structurally changed in a way which increases its nonconformity at the time of enactment of this section. Except for residential uses, Special Use approval must be obtained by the Planning Board for any alteration, reconstruction, or structural change of a nonconforming use or activity within the Water Supply Protection Overlay District.