

Chapter 87

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[HISTORY: Adopted by the Village Board of the Village of Liberty 6-11-2008 by L.L. No. 4-2008.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Adult bookstores — See Ch. 6.
Appearance tickets — See Ch. 10.
Building construction — See Ch. 14.
Flood damage prevention — See Ch. 34.
Housing standards — See Ch. 48.
Property maintenance — See Ch. 59A.
Recreation and parks — See Ch. 63.
Sewers — See Ch. 68.
Signs — See Ch. 70.
Streets and sidewalks — See Ch. 74.

ARTICLE I**Enactment and Intent****§ 87-1. Authority; interpretation; conflict; severability.**

- A. Authority. This chapter, which shall be known as the "Village of Liberty Zoning Law," is enacted under the authority of the New York State Village Law and § 10 of the New York State Municipal Home Rule Law.
- B. Interpretation. The provisions of this chapter, in their interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- C. Conflict. This chapter is not intended to interfere with, abrogate, or annul any other law, rule or regulation, statute or provision of law. Where any of the provisions of

1. Editor's Note: This local law also repealed former Ch. 87, Zoning, adopted 3-29-1967, as amended.

these regulations impose restrictions different from any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This chapter, however, shall repeal and replace in its entirety the existing Chapter 87 of the Village of Liberty Code.

- D. Separability. If any part or provision of these regulations is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances. The Village hereby declares that it would have enacted the remainder of these regulations even without such part or provision or application.

§ 87-2. Intent; purpose.

It is the legislative intent of this chapter to provide for the orderly and desirable development and use of land within the Village of Liberty. This chapter incorporates the Liberty Joint Comprehensive Plan and is expected to evolve over time to meet other changing needs. Regular reviews and updates are anticipated. Specific purposes include the following:

- A. The facilitation of the efficient and adequate provisions of public facilities and services.
- B. The protection of residential areas and the provision of privacy for families.
- C. The prevention and reduction of traffic congestion and the provision of safe and adequate traffic access to uses generating large volumes of traffic.
- D. The protection of business areas by the reduction of traffic congestion caused by insufficient roadway capacity and/or design and inadequate parking facilities.

- E. The preservation of historic and natural features and the accommodation of new development in such a way as to maintain and enhance the desirable aesthetic qualities of the Village.
- F. To make the provision for, so far as conditions permit, the accommodation of solar energy systems and equipment and the access to sunlight necessary therefor.
- G. The assurance of adequate sites for residence, industry and commerce.
- H. The enhancement of the appearance of the Village of Liberty as a whole.
- I. The encouragement of flexibility in the design and development of land in such a way as to produce the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands.

ARTICLE II Definitions and Word Usage

§ 87-3. Word usage.

- A. Unless otherwise listed below, the numbers, abbreviations, terms and words used herein shall have the meanings of common usage as set forth in the latest edition of Webster's New Collegiate Dictionary. Terms of law shall have the meanings as set forth in the latest edition of Black's Law Dictionary.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular include the plural; words used in the plural include the singular; the word "herein" means in this chapter; the word "requirements" means the minimum requirements necessary for the purposes set forth in Article I; and the words "this chapter" shall mean this

chapter and the schedules and maps included herein as enacted or subsequently amended.

- C. The word "person," as used in this chapter, shall be defined to include, but not be limited to, an individual, a partnership, a joint venture, a corporation, an unincorporated association, a firm or any other form or entity, contractors, subcontractors, or journeymen.
- D. The word "lot" includes the word "plot."
- E. The term "occupied" or "used," as applied to any land or building, shall be construed to include the words "intended," "arranged," or "designed to be occupied or used."
- F. "Shall" is always mandatory, except when applied to public officials, in which event "shall" is directory. Time requirements shall, nevertheless, be considered mandatory.
- G. Those terms related to building and land use that have not been defined herein shall have the meaning given to them under the Building Code of New York State.

§ 87-4. Definitions.

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

ACCESSORY USE BUILDING OR STRUCTURE — A subordinate use, building or structure customarily incidental to and located on the same lot occupied by the main use, building or structure.

ADULT USES — A use of a building or land for a business which has obscene materials as a significant portion of its stock-in-trade. Obscene materials include any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, sound recording, article, instrument or any other written or recorded matter

which depicts or describes sexual conduct and which, taken as a whole, does not have serious literary, artistic, political or scientific value.

AGRICULTURE — An enterprise in which activities include the cultivation of food, fiber or horticultural crops.

ALTERATION — A change, enlargement or rearrangement in the structural parts of a structure, whether by extending on a side or by increasing in height, or moving from one location or position to another.

ANIMAL HOSPITAL OR VETERINARY CLINIC — A facility for the medical or surgical care and treatment of animals, including shelters and like facilities, other than animal kennels as described herein.

ANIMAL KENNEL — Any building, structure or premises in which animals are kept, boarded or trained in excess of the limitations prescribed for an accessory use of a residence.

ANNUAL MEMBERSHIP CLUB — A nonprofit organization established for the purpose of offering services of a community or recreational nature to its membership.

AUTO BODY SHOP — Any shop or garage, other than a private garage, available to the public, operated for gain and where services may be performed the same as an automotive repair garage and, in addition, where bodywork and painting are also performed.

AUTOMOTIVE SERVICE STATION — Any use of land, including any buildings or structures thereon, that is used for the supply of gasoline, oil or other fuel for the propulsion of motor vehicles and/or activities related to the maintenance of automobiles or other vehicles or equipment, including but not limited to polishing, greasing, waxing, washing, servicing, equipping or repairing of motor vehicles, but excluding bodywork or painting.

BASEMENT — That space of a building that is partly below grade which has more than half of its height, measured from

floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

BED-AND-BREAKFAST — A house or portion thereof where short-term (14 days or less) lodging rooms and meals are provided for in-house guests. The operator of the inn shall live on the premises or in adjacent premises.

BUFFER AREA — The ground area of a lot which shall be left in its natural state or planted, as may be required by code and/or district regulations or the Planning Board in connection with site plan review.

BUILDING — Any structure having a roof supported by such things as columns, posts, piers or walls and intended for the shelter, business, housing or enclosing of persons, animals, property or other materials, including any combination of materials forming any construction. The term "building" shall include the term "structure," as well as the following:

- A. Signs.
- B. Walls and retaining walls.
- C. Radio, television and microwave antennas, except for such antennas installed on the roof of a "building" and extending not more than 10 feet above the highest level of the roof of such "building."
- D. Pergolas, porches, decks, outdoor bins and other similar structures.
- E. Fixed awnings.
- F. Swimming pools.
- G. Transmission towers.
- H. A structure requiring a subsurface support or base, such as a footing or sleeve for a flagpole or sign.

BUILDING HEIGHT — The vertical distance measured from the average elevation of the proposed finished grade to the

highest point of the roof for flat roofs; to the deckline of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

CODE ENFORCEMENT OFFICER — The person charged by the Village Board with responsibility for administration and enforcement of this chapter.

CELLAR — That space of a building that is partly or entirely below grade which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

CEMETERY — A place used for burials, whether in the ground or in mausoleums, provided that no new cemetery shall result in in-ground burials within a one-hundred-year floodplain area or the construction of any mausoleum structure of greater than 500 square feet in size any closer than 100 feet from the perimeter of the cemetery.

CLUBHOUSE — An organization catering exclusively to members and their guests, which is not conducted primarily for gain, provided that it does not include any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club. Accessory uses and/or structures may include such subordinate purposes as administration, operation, accommodations, and the sale of food and drink primarily to members and their guests.

CLUSTER DEVELOPMENT — A grouping of buildings (whether on individual lots or in condominium ownership) in proximities closer than permitted by the existing zoning and subdivision regulations in order to preserve open space and to minimize infrastructure improvements pursuant to § 7-738 of the New York State Village Law (also known as "conservation subdivision").

COMMERCIAL RECREATION FACILITY — An indoor or outdoor privately run business involving playing fields, courts, arenas or halls designed to accommodate sports and

recreational activities, such as but not limited to billiards, bowling, dance halls, gymnasiums, health spas, skating rinks, indoor or outdoor shooting ranges, tennis courts, swimming pools, team sports and golf courses.

CONVENIENCE RETAIL STORE — A retail store containing less than 2,000 square feet of gross floor area that is designed and stocked primarily to sell food, beverages, and household supplies to customers who purchase only a relatively few items.

CURB CUT — A driveway or other entranceway to a public highway requiring a break in the curblin or shoulder.

DAY-CARE CENTER, ADULT — A nonresidential facility which meets New York State requirements for certification intended to provide daily assistance and/or supervision to handicapped adults, the elderly or adults otherwise requiring assistance to perform activities associated with daily living.

DAY-CARE CENTER, CHILD — A nonresidential facility intended to provide for the daytime care and supervision of children for a period exceeding three hours and which meets New York State requirements for certification.

DWELLING, MULTIFAMILY — A building or portion thereof containing more than two dwelling units but intended for single ownership. Single ownership is not intended to preclude cooperative or condominium ownership.

DWELLING, ONE-FAMILY — A detached building designed or occupied exclusively by one family and having two side yards, with at least 960 square feet of living area, erected on a permanent foundation, with/without basement, and equipped for year-round occupancy.

DWELLING, OWNER-OCCUPIED UPPER-STORY — A dwelling unit located above a commercial space and occupied by the owner or commercial occupant of the building or, in the case of a condominium dwelling unit above a commercial space, the owner of such condominium dwelling unit.

DWELLING, TWO-FAMILY — A structure containing two dwelling units.

DWELLING UNIT — A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrances or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. The rental units/rooms in a boardinghouse, dormitory, motel, inn, nursing home or other similar building shall not be deemed to constitute "dwelling units."

ESSENTIAL SERVICES — The construction and maintenance of underground, surface or overhead electrical, gas, telephone, water and sewage collection systems along with normal accessory activities.

FAMILY — As many as six persons living together as a single, permanent and stable nonprofit housekeeping unit, using all rooms in the dwelling and housekeeping facilities in common and having such meals as they may eat at home generally prepared and eaten together with sharing of food, rent, utilities or other household expenses. Households or groups of more than six persons living together shall not be considered families for purposes of this chapter unless affirmative evidence is presented to indicate to the satisfaction of the Code Enforcement Officer that the household or group meets the other criteria contained herein.

FLOOR AREA, GROSS — The sum of the area of all floors of a building as measured from the exterior walls.

GARAGE, PRIVATE — An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises. Garage space is not classed as living area even when part of a dwelling. Detached garages for residences are accessory structures under this Code.

HABITABLE SPACE — Space occupied by one or more persons for living, sleeping, eating or cooking. Restaurants for employees and occupants, kitchens serving them and kitchenettes shall not be deemed to be habitable space.

HAZARDOUS — Any material defined by the United States Environmental Protection Agency (USEPA) as hazardous or toxic due to its characteristics, including but not limited to direct or indirect toxicity, radioactivity, explosivity, and flammability, or other characteristics as the USEPA or its successors may revise from time to time.

HEALTH FACILITIES — A facility or institution principally engaged in providing services for human health maintenance, including a hospital, nursing home, assisted-living facility, physical rehabilitation center, medical clinic or medical laboratory.

HOME OCCUPATION — An activity carried out for gain by a resident and conducted as an accessory use in the resident's dwelling unit or on the site of the residence.

HOTEL — A building in which lodging is provided in guest units and offered to the public for compensation and in which ingress to and egress and from all rooms are made through an inside lobby or office, supervised by a person in charge at all hours. The guest unit shall consist of a room arranged or designed to be available for use as sleeping quarters for transient guests on a daily or weekly basis. The term "hotel" does not include bed-and-breakfast establishments.

INDUSTRIAL PARK — A tract of land providing for more than one industrial use, as defined under "light industrial," designed, maintained and operated as a unit in single ownership or control and sharing certain facilities in common, such as driveways, parking areas, drainage, utilities and screening.

INDUSTRIAL USES — Uses involving manufacturing or processing involving changing the nature, size, or shape of substances of raw materials or recombining raw materials.

Industrial uses may involve the use of chemical applications, heat, pressure or other mechanical processing methods.

INSTITUTIONS — Charitable, nonprofit or quasi-public uses, including but not limited to places of worship, health facilities, schools, libraries, treatment centers and the like.

JUNKYARD — Uses involving either one or both of the following:

- 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.
- B. Any place where two 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 dismantled or stored outside for any purpose for a period of six months or more, including but not limited to junkyards meeting the definition set forth in the New York State General Municipal Law and Village Law. The Village 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 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.

KENNEL — See "animal kennel".

LIGHT INDUSTRIAL — Industrial uses such as manufacturing, processing and assemblage that are of a nonpolluting nature, particularly in regard to reservoir and groundwater resources, and in regard to ambient air quality, noise and light radiation.

LIVE AND WORK UNIT — An integrated living unit and working space with an internal connection between the living unit and working space, occupied and utilized by a single family and located in a building with ground floor commercial space.

LOT — A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

- A. **CONFORMING** — A lot having not less than minimum area and dimensions required by this chapter for a lot in the district in which such land is situated and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of state law to be adequate as a condition of the issuance of a building permit for a building on such land.
- B. **NONCONFORMING** — A parcel of land owned individually and separately, and separated in ownership from any adjoining tracts of land, which has a total area and/or dimensions less than prescribed by this chapter for a lot in the district in which such land is situated.

LOT, CORNER — A lot at the junction of, or abutting on, two or more intersecting streets.

LOT COVERAGE — The percentage of the plot or lot area covered by the building area and all impervious surface. Parking areas, regardless of how surfaced, shall be considered impervious.

LOT DEPTH — The mean distance from the street line of a lot to the rear lot line of such lot, not to include the street or road right-of-way.

LOT, FLAG — A lot located in such a position that it is to the rear of a lot fronting on the same street with or without a shared curb cut.

LOT LINE, REAR — The lot line generally opposite the street line.

LOT WIDTH — The shortest distance between side lot lines measured at the front yard setback line.

MACHINERY — Farm, earthmoving and excavating equipment.

MINERAL — Any naturally formed solid material of commercial value located on or below the surface of the earth. For purposes of this chapter, peat and top soil shall be considered "minerals."

MINING — The extraction or removal of minerals from the ground for sale or exchange or for commercial, industrial or municipal use. This definition shall not apply to:

- A. The excavation or grading of an area necessary to prepare a site for construction in accordance with an approved building permit, site plan or subdivision plan, provided that the excavation takes place within the project site, does not involve the sale or exchange of mineral resources to off-site locations and is an integral part of the involved project activities.
- B. Excavations or grading undertaken to enhance the agricultural use of lands or to provide for structures or other improvements that benefit or are necessary for ongoing or imminent agricultural activities. This exemption applies only to excavations where the mineral removal and subsequent reclamation enhances the agricultural usability or productivity of the land.

MOBILE/MANUFACTURED HOME — A structure, transportable in one of more sections, that 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.

MOBILE HOME/MANUFACTURED HOME PARK — An area of land under single ownership which has been planned and improved for the placement of two or more mobile homes (also

known as "house trailers" or "manufactured homes") for dwelling purposes. See also Chapter 47, House Trailers, as amended.²

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 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.

MOTEL — A building or group of buildings, whether detached or in connected units, containing living and sleeping accommodations used primarily for transient occupancy and which has individual entrances, from outside the building, to serve each guest unit. The guest unit shall consist of a room arranged or designed to be available for use as sleeping quarters for transient guests on a daily or weekly fee basis. The term "motel" includes buildings designated as tourist courts, motor lodges, auto courts and similar appellations but does not include boardinghouses.

NONHABITABLE SPACE — Space used as kitchenettes, pantries, bath, toilet, laundry, rest, dressing, locker, storage, utility, heater or boiler rooms, closets and other spaces for service and maintenance of the building, and those spaces used for access and vertical travel between stories.

NURSERY — A place where trees, shrubs, vines and/or flower and vegetable plants are propagated or grown for a period of at least six months and/or where flowers and vegetables of an annual variety are germinated before being offered for sale and transplanting.

NURSERY SCHOOL — Any private school, accredited by the Education Department of the State of New York, designed to

2. Editor's Note: Former Ch. 47, House Trailers, was repealed 3-9-2005 by L.L. No. 7-2005.

provide daytime care and instruction for not more than 75 children from two years to six years of age, inclusive.

OCCUPIED SPACE — Space within a building wherein persons normally work or remain for a period of time.

OFFICE, BUSINESS AND PROFESSIONAL — A place or establishment used for the organizational or administrative aspects of a trade, or used in the conduct of a profession or business, and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of salesmen, sales representatives, architects, engineers, physicians, dentists, attorneys, insurance brokers, real estate brokers and persons with similar occupations.

OPEN SPACE, USABLE — An unenclosed portion of a lot that is not devoted to driveways or parking spaces and generally free of structures of any kind except for permitted accessory uses.

OUTDOOR STORAGE — The storage of building supplies, raw materials, finished products, machinery and equipment outside the principal building and as permitted within certain nonresidential districts.

PERMITTED USE — A specific main use of a building, structure, lot or land, or part thereof, which this chapter provides for in a particular district as a matter of right. Any use which is not listed as a permitted, special use or accessory use shall be considered a prohibited use.

PERSONAL SERVICES — An establishment primarily engaged in providing services involving the care of a person or personal apparel, such as a beauty parlor, barbershop, health and fitness center, tailor, or custom cleaning services.

PET, HOUSEHOLD — A small animal (generally under 150 pounds) that is customarily kept for company or enjoyment and one that may be properly and safely kept within a dwelling unit or yard. "Household pets" shall include dogs, cats, pet rabbits,

domestic tropical birds, rodents (gerbils, hamsters and guinea pigs) and reptiles and amphibians.

PRINCIPAL STRUCTURE — A building in which is conducted the main or principal use of the lot on which it is located.

PUBLIC BUILDINGS AND USES — Structures and uses operated by a governmental agency (whether municipal, county, regional, state or federal) in the proper exercise of their jurisdiction.

RESEARCH, DESIGN AND DEVELOPMENT LABORATORY — A building for experimentation in pure or applied research, design, development and production of prototype machines or of new products, and uses accessory thereto, wherein products are not manufactured for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed, and wherein there is no outside display of any materials or products.

RESIDENTIAL CONVERSIONS — Conversion of a residential structure to a more intensive (higher-density) residential use or a nonresidential use otherwise permitted within the zoning district where such conversion is proposed.

RESTAURANT — Any premises where food and/or beverages are commercially sold for on-premises consumption to patrons seated at tables or counters and where table service is provided. Any facility without table service or providing parking lot service to cars where the food is to be eaten outside of the structure and/or off the premises shall not be considered a "restaurant" for the purposes of this chapter and shall be deemed to be a "drive-in or fast-food restaurant."

RESTAURANT, FAST-FOOD — A business enterprise primarily engaged in the sale of quickly prepared food and beverages selected by patrons from a limited line of prepared specialized items such as hamburgers, chicken, pizza, tacos, ice cream and hot dogs, for take-out and/or on-premises consumption (in the latter case, where orders are placed at a counter as opposed to table service via a waiter/waitress, in a

facility where the floor area available for dining is less than 1/2 of the gross floor area, and a major portion of the sales to the public is at a drive-in or stand-up type counter. The term "fast-food restaurant" shall not include bakeries, delicatessens, or similar types of retail establishments. See also "restaurant."

RETAIL ESTABLISHMENTS — Stores and shops where goods are sold primarily at retail. Such sales are primarily made directly to the consumer and include, but are not limited to, goods such as food and beverages; florists; shoes and clothing; hardware, paint and wallpaper; carpeting; hobby and crafts; books; furniture; antiques; art supplies; music; pharmacies; jewelry; photographic supplies; pets; gifts; stationery; sporting goods; fabrics; optical goods; launderette/laundromat; and appliances, but excluding lumberyards, restaurants and fast-food restaurants. Outside storage or display of goods for such is permitted only with site plan review by the Planning Board.

RETAIL OUTLET FOR ON-SITE INDUSTRIAL USE — An accessory retail use located within and as part of an industrial use where the bulk of the retail goods are manufactured on site and the retail use is limited to 10% of the total floor area or 4,000 square feet or less.

SATELLITE EARTH STATION — An antenna or dish antenna whose purpose is to receive communications or other signals from orbiting satellites and other extraterrestrial sources.

SCHOOL, PRIVATE — An institution, not owned by a public agency, which offers to its students formal education and is chartered by the Board of Regents of the University of the State of New York.

SCHOOL, PUBLIC — An institution under the jurisdiction of a school district or other public agency and legally constituted by the State of New York to offer free formal education to residents of the district.

SCREENING — The blocking, shielding or concealment of views, vistas and noise through a proper and well-designed scheme of planting trees, shrubs, hedges or vines or the installation of a fence approved by the Planning Board.

SEASONAL RECREATION CAMPS/SCHOOLS — A combination of educational or recreational facilities with dwelling structures where organized programs are conducted primarily for youth and where occupancy is limited to the months of May through October.

SENIOR CARE FACILITY — A multifamily dwelling, restricted to occupancy by persons of sixty-two years of age or older, where such residents are supported in the activities of daily living by trained staff.

SITE PLAN — Proposed conditions of the lot(s) and any other information that may be reasonably required in order to make an informed determination pursuant to this chapter requiring review and approval by the Code Enforcement Officer and/or Planning Board (or the Village Board, if applicable).

SPECIAL USE — A use which, because of its unique characteristics, requires individual consideration through a site plan review process by the Planning Board as established by § 7-725-b of the Village Law of the State of New York. Such a use may require the meeting of certain conditions and safeguards before being permitted.

STABLE, PRIVATE — An accessory structure in which horses are kept for private use and not for hire, remuneration or sale.

STABLE, PUBLIC — A building in which any horses are kept for remuneration, hire or sale.

STATE BUILDING CONSTRUCTION CODE — Rules and regulations relating to building construction as promulgated in the New York State Uniform Building and Fire Prevention Code.

STREET — Any vehicular way improved to the standards of the Village of Liberty; shown on the Official Map of the Village

of Liberty; existing as a Village, county or state highway; shown on an approved subdivision plat; or a street shown on a plat filed with the County Clerk prior to the Planning Board's authorization to review subdivisions.

STREET LINE — The dividing line between a lot and a street right-of-way.

STRUCTURE — Structure means a combination of materials to form a construction that is safe and stable and includes, among other things, stadiums, telecommunications facilities, sheds, storage bins, billboards, and display signs.

SWIMMING POOL — Any nonportable pool installed above or below the ground, containing an artificial body of water at least 24 inches deep and to be used for swimming or bathing. As used herein, the word "pool" shall be synonymous with the words "swimming pool."

TRAVEL TRAILER or RECREATIONAL VEHICLE — A vehicular, portable structure built on a chassis, designed as a temporary one-family dwelling for travel, recreation and vacation and having a body width not exceeding eight feet and a body length not exceeding 34 feet.

TRUCK TERMINAL — An area and building where cargo is stored and where trucks load and unload cargo on a regular basis with or without truck maintenance and repair facilities.

USE, MIXED — A building or structure containing at least one residential use and one nonresidential use, both of which are primary uses and neither of which is subordinate to the other. Residential structures containing home occupations are not mixed uses.

UTILITY AREA — An area, the principal use of which is to house plumbing, heating, mechanical and/or ventilating equipment. Such space within a dwelling unit may not be counted toward the minimum square footage of living area.

VARIANCE — A relief from the regulations of this chapter, granted on grounds of practical difficulties or unnecessary hardships, not self-imposed, by the Zoning Board of Appeals.

VEHICLE — Any device on wheels, treads or runners, self-propelled or towed, including but not limited to automobiles, trucks, motorcycles, trailers of all types and snowmobiles.

VEHICLE AND EQUIPMENT SALES — A building and/or area arranged, intended or designed to be used for the rental, lease, sale and/or resale of motor vehicles, new or used; boats or trailers; and other equipment. A selection of motor vehicles, boats or trailers or other equipment may be displayed within a totally enclosed building, but still others may require an outdoor area for their storage.

WAREHOUSE — A building, or part of a building, for storing of goods, wares, and merchandise, whether for the owner or for others, and whether it is public or private warehouse.

WAREHOUSE, MINI — A structure or group of structures for the dead storage of customers' goods and wares where individual stalls or lockers are rented out to different tenants for storage and where one or more stalls or lockers have less than 500 square feet of floor area.

WORSHIP, PLACE OF — A structure and accessories used for religious observances, such as churches and synagogues.

YARD — A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitation and requirements limiting obstruction of visibility.

YARD, FRONT — A yard extending between side lot lines across the front of a lot adjoining a public street. In the case of through lots or corner lots, unless the prevailing front yard

pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Front yards shall be measured from the edge of pavement.

YARD, REAR — A yard extending across the rear of the lot between inner side yard lines. In the case of through lots, there will be no rear yard but only front and side yards.

YARD, SIDE — A yard extending from the rear line of the required front yard to the rear lot line or, in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of required front yards. In the case of corner lots, one of the yards remaining after the designation of front yards shall be considered the side yard, and the other, the rear yard.

ARTICLE III Basic District Regulation

§ 87-5. Enumeration of districts.

- A. The Village of Liberty is hereby divided into the following types of districts:

R-1	Residential Low Density
R-2	Residential High Density
C	Commercial
DCC	Downtown Commercial Core
M	Manufacturing

- B. Floodplain Overlay, Aquifer Protection Overlay and PUD Planned Unit Development Districts are also provided for hereunder.

§ 87-6. Zoning Map.³

The location and boundaries of said districts are hereby established as shown on the Official Zoning Map of the Village of Liberty, as amended this date or hereafter, which is attached hereto and made a part of this chapter.

§ 87-7. Interpretation of district boundaries.

- A. Zoning district boundary lines are intended generally to follow or connect the center lines of rights-of-way; existing lot lines; the mean water level of rivers, streams and other waterways; or Village boundary lines, all as shown on the Zoning Map, but where a district boundary line does not follow such a line, its position is shown on said Zoning Map by a specific dimension or relationship to such a line.
- B. Where a district boundary line divides a lot of record at the time such line is established, the Planning Board may allow the extension of activities permitted in the larger district to the smaller as a special use, provided that such expansion is limited to 50% of the depth of the district fronting on any street. This is to permit more flexibility in the use of large parcels.
- C. When the specific location of a zoning district boundary line cannot be ascertained, the Code Enforcement Officer shall request the Planning Board to render an interpretation, which shall then be used as the basis for applying zoning standards.

§ 87-8. Schedule of district regulations.⁴

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

3. Editor's Note: The Zoning Map is on file in the Village offices.

4. Editor's Note: The Schedule of District Regulations is included at the end of this chapter.

sections of this chapter and other laws of the Village of Liberty. Any use identified as a principal permitted use shall be permitted as a matter of right upon application to the Code Enforcement Officer, provided that the proposed use is in compliance with these regulations. Special uses are also subject to site plan review and, specifically, Planning Board approval as prerequisites to the Code Enforcement Officer issuing a permit for their establishment. Site plan review shall also be required for new nonresidential uses and such other uses as the Village Board may from time to time designate by local law. Accessory uses are permitted to accompany or precede principal permitted and special uses, and permits for these uses shall be issued directly by the Code Enforcement Officer.

§ 87-9. Applicability of regulations.

- A. Whenever any owner or occupant of any property in the Village of Liberty shall, for any purpose or in any manner; 1) establish a new use; 2) commercially clear land as defined in § 87-14 below or excavate or grade more than 10,000 square feet of land or any land for purposes of making permanent structural improvements to a property that would otherwise require a permit hereunder; 3) change an existing use; 4) make permanent structural improvements to a property that would require a permit under the Building Code of New York State; 5) erect a new building; 6) move, alter, add to or enlarge any existing land use or building; such owner or occupant shall first comply with the requirements of this chapter and obtain any approvals and permits required hereunder, unless specifically exempted from such requirements by this chapter. An approval shall be required whenever a change in land use occurs, regardless of whether or not any new construction is involved hereunder.
- B. If a proposed use is not specifically listed in any category of uses or within any zoning district on the Schedule of

District Regulations,⁵ the Planning Board shall render a formal determination as to whether or not the use is permitted in a given district, and if the use is permitted, it shall then process the application as a special use. The Planning Board shall make its determination on the basis of similarities of the use to other specifically listed uses within various districts, taking into consideration the impacts of the use on the community and the neighborhood in which it is proposed. This shall not permit the Planning Board to reclassify uses which are already listed, nor shall the Planning Board allow any use which is not listed in a particular district if that use is already permitted in another district.

- C. Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor or other form of air pollution or by reason of the deposit, discharge or dispersal of liquid or solid wastes in any form in a manner or amount as to cause permanent damage to the soil and stream or to adversely affect the surrounding area or by reason of the creation of noise, vibration, electromagnetic or other disturbance or by reason of illumination by artificial light or where light reflection emanates, or which involves any dangerous fire, explosive, radioactive or other hazard or which causes injury, annoyance or disturbance to any of the surrounding properties or to their owners and occupants and any other process or use which is unwholesome and noisome and may be dangerous or prejudicial to health, safety or general welfare is prohibited. Further, except as may herein be provided, the following uses and activities are expressly prohibited:

- (1) Dumps. No dump or deposit of rubbish or garbage or tires where vermin, flies or mosquitoes may breed, from which offensive odors may be emitted or where

5. Editor's Note: The Schedule of District Regulations is included at the end of this chapter.

a smoldering fire may burn shall be permitted except for municipal transfer stations.

- (2) Junkyards and auto-dismantling facilities.⁶
- (3) Manufactured homes outside of manufactured home parks.

§ 87-10. Lot development standards.

- A. Minimum development standards. The development standards contained herein are minimums and shall apply to each dwelling unit unless otherwise specifically provided. Notwithstanding this, the minimum lot area for a two-family dwelling shall be 135% of that for a single-family dwelling.
- B. Corner lots. No obstruction to vision (other than an existing building, post, column or tree) exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines 30 feet distant from their points of intersection.
- C. Through lot requirements. A through lot shall be considered as having two street frontages, both of which shall be subject to the front yard requirements of this chapter.
- D. Minimum lot frontage. All residential lots shall have a front lot line, along the right-of-way, with a minimum length of 50 feet. Flag lots shall, nonetheless, be permitted where a single driveway is used to provide access to two lots, one along the front lot line and the other to the rear of such lot, provided a right-of-way of no less than 25 feet in width is provided for the drive and the owners have submitted a joint maintenance agreement or deed

6. Editor's Note: See also § 87-46, Junkyards.

covenant providing for the shared maintenance of such drive.

- E. Regulations applicable where a residential district abuts a nonresidential district.
- (1) Ingress or egress to business and industrial sites. Where a residential district (R-1 or R-2) is bounded by a portion of a commercial or manufacturing district (C, DCC or M), then any street extending through such residential district shall not be used for any business or industrial purpose, including ingress or egress, unless approved by the Planning Board. The business structure erected in said business district shall front and have the building entrances upon the street set aside for business purposes. All means of ingress to or egress from the site shall be approved by the Planning Board.
 - (2) Garage entrances. No public garage for more than five motor vehicles shall have an entrance or exit for the same vehicles within 50 feet of a residential district.

§ 87-11. Height restrictions.

- A. General application. No building or structure shall exceed in building height the number of feet permitted as a maximum on the Schedule of District Regulations⁷ for the district where such building or structure is located.
- B. Permitted exceptions. Height limitations stipulated elsewhere in this chapter shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, chimneys, smokestacks, flagpoles, radio and transmission towers, farm buildings or similar noninhabited structures under 150 feet in height. Structures over 150 feet in height

7. Editor's Note: The Schedule of District Regulations is included at the end of this chapter.

may be permitted as special uses, provided that they are sufficiently set back from adjoining properties to avoid any safety hazard connected therewith and meet all state and federal air safety and electronic communications standards. Other height exceptions may also be granted as special uses where fire-fighting capacity will not be threatened and buffers and setbacks are also proportionally greater.

§ 87-12. Yard regulations.

- A. Side yard exception. Where the side wall of a building is not parallel with the side lot line or is irregular, the side yard may be varied at the discretion of the Planning Board. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any point than 1/2 the otherwise required minimum width.
- B. Front yard exception. When an unimproved lot is situated adjacent to or between improved lots already having a principal building within the required front yard, the front yard for the unimproved lot may be reduced to the average depth of the front yards for the two nearest adjoining improved lots.
- C. Provision of yard or other open space. No yard or other open space provided about any buildings to comply with the provisions of the law shall be considered as providing a yard or open space for any other building, and no yard or other open space on another lot shall be considered as providing a yard or open space for a building on any other lot.

§ 87-13. Accessory structure and use standards.

The location, limitation and coverage of accessory buildings shall be as follows:

- A. No permitted accessory building shall be placed in any required side or front yard except as provided in this article.
- B. The aggregate ground area covered by any accessory buildings in any rear yard shall not exceed 50% of the rear yard area.
- C. Accessory structures not attached to a principal structure shall:
 - (1) Be located not less than 10 feet from any side or rear lot line or in such a fashion as to prevent emergency fire-fighting access or to shade a residential structure on an adjoining lot.
 - (2) Be no closer to the street than any principal structure on the lot. Accessory buildings to principal structures located more than 100 feet from a lot line shall be exempt. Accessory structures may, in these situations, be located in front of residences but not in required front yard areas.
- D. Accessory structures of more than one story in height within required side or rear yards shall be subject to special use review.
- E. Railroad cars or retired mobile home units and recreational vehicles shall not be used for purposes of accessory storage structures. Storage trailers and bulk containers may be used for accessory storage in C and M Districts only, subject to site plan review by the Planning Board. Temporary use of such trailers or containers in R-1 and R-2 Districts during construction periods may be authorized by the Code Enforcement Officer, provided that such storage trailers and containers are completely removed prior to issuance of a certificate of compliance or certificate of occupancy, whichever shall be applicable.

- F. Fences and walls. Except as otherwise required herein or approved by the Planning Board as part of a site plan, fences and walls:
- (1) Shall not exceed six feet in height when erected in required side or rear yards and shall not exceed four feet in height when erected in the required front yard;
 - (2) Shall conform to corner lot requirements contained herein;
 - (3) Shall be measured from the ground level at the base of the fence or wall, excepting that where there is a retaining wall, the height shall be measured from the average of the ground levels at each end of the retaining wall; and
 - (4) In the case of retaining walls over four feet high require site plan review by the Planning Board and a building permit.
- G. Garages and storage of recreation vehicles in residential zones.
- (1) Garage accessory to single-family detached dwelling. A garage accessory to a single-family detached dwelling used for vehicle storage shall not exceed 25 feet by 50 feet in area with a maximum wall height of 12 feet.
 - (2) Garages accessory to two-family or multifamily dwellings. Garages accessory to two-family or multifamily dwellings used for vehicle storage shall not exceed 25 feet by 50 feet in area with a maximum wall height of 12 feet. Garage space may be provided for each family for which such residence is arranged. Space in a garage accessory to a multifamily residence shall be used solely by occupants of the premises.

- (3) Storage of recreation vehicles. The outdoor storage of one operable state-inspected recreation vehicle (travel trailer) or one operable boat of more than 15 feet in length is permitted for every 20,000 square feet of lot area, provided that such trailer or boat is unoccupied and not stored between the street line and the front building line, except that one such vehicle or boat may be stored in a driveway. Under no circumstance may such a vehicle or boat be stored within 15 feet of a street line or closer to a property line than the minimum distance permitted for an accessory structure.
- (4) Storage and parking of commercial vehicles. In residential zones, no more than one commercial vehicle under 18,000 pounds and none over that size shall be permitted on a continuing basis (more than seven days in any given month). This restriction shall also apply to unlicensed vehicles used for storage purposes on C, DCC and M District vacant lots, if not accessory to an adjoining business. Outdoor storage of more than one commercial vehicle is allowed by special use permit in the C or DCC Districts and shall be unrestricted in M Districts. Commercial vehicles or auxiliary engines may not be left running in residential zones.

§ 87-14. Land clearing.

- A. Purpose. The purpose of this section is to ensure that the trees and forests of the Village are protected from unregulated removal and destruction, to maintain and/or improve surface water quality, to enhance the aesthetics of site development, to preserve important scenic vistas which are visible from public rights-of-way, to maintain soil and slope stability and to control the impacts of development on the environment. It is the policy of the Village of Liberty to limit land clearing activities in the Village since they have the effect of increasing the

potential for soil erosion and can degrade existing water quality through siltation and sedimentation, create visual scars in landscape, and reduce forest habitat.

- B. Definitions. Land clearing is defined, for purposes of this section, as the cutting or removal within any area of 50% or more of those trees having a diameter of two inches or more measured four feet above the ground.
- C. Submission required. The proposed land clearing shall require submission of the following:
 - (1) Survey map illustrating the property boundaries and delimiting the area proposed for land clearing;
 - (2) Location of any trees having a diameter of two inches or more measured four feet above the ground within the land clearing area;
 - (3) The location of any streams within 200 feet of limits of land-clearing activity;
 - (4) Mitigation measures to reduce the impact associated with soil erosion and sedimentation;
 - (5) Whether any pesticides and/or herbicides will be applied and, if so, setting forth the identity of each such pesticide and/or herbicide and the manner in which they will be applied, used, maintained and controlled; and
 - (6) The location of all wood roads and skid trails and where equipment will be operated must be set forth on the site plan.
- D. Standards. An application for land clearing shall only be approved if it meets the following standards:
 - (1) The activities minimize, to the maximum extent practicable, the need for land clearing. Whenever possible, the applicant shall be required to perform selective cutting;

- (2) Land clearing shall not be conducted within 10 feet of any side lot line, nor within 25 feet of any front or rear lot line;
 - (3) Land-clearing activity shall be minimized to reduce visual impact to scenic views in the community. In these instances, selective cutting is the preferred alternative;
 - (4) Land clearing shall avoid removal of large-diameter trees (eight-inch diameter or greater measured four feet above the ground), to the maximum extent practicable;
 - (5) The land clearing reduces impacts associated with soil erosion and sedimentation to the maximum extent practicable;
 - (6) Use of any pesticides and/or herbicides will be applied, used, maintained and controlled in strict accordance with all applicable federal, state and local laws, rules and regulations; and
 - (7) Wood roads and skid trails will be located and equipment will be operated so as to minimize erosion on slopes and elsewhere.
- E. (Reserved)
- F. Exceptions. A permit for land clearing shall not be required for the following activities:
- (1) Minor tree removal activities associated with home landscaping, repairs and maintenance work;
 - (2) Individual service connections and construction or installation of public utility lines;
 - (3) Preparation of a site for the construction of no more than one single-family residence or one two-family residence separately built;

- (4) Installation of fence and sign posts or telephone and electric poles and other kinds of posts and poles;
 - (5) Highway or public utility construction or maintenance;
 - (6) Emergency work to protect life, limbs and property; or
 - (7) The removal of dead, diseased or dying trees or vegetation which, in the opinion of the Building Inspector, presents safety or health hazards.
- G. Inspection required prior to issuance of permit; issuance of permit. Upon final site plan or subdivision approval of the Planning Board, whichever is applicable, and prior to the issuance of a permit for land clearing, the applicant shall be required to flag the area proposed to be cut with blue flags and shall provide written notice to the Building Inspector after the property has been delineated. Large-diameter trees to be preserved shall also be flagged, with yellow flags. All mitigation measures as required by the Planning Board shall be installed. The Building Inspector shall inspect the premises and shall issue a permit to conduct the land-clearing activity upon the finding that the limits of land clearing have been delineated in accordance with that area shown on the site plan and that mitigation measures have been implemented.
- H. Separate tax parcel boundaries irrelevant. For the purpose of this section, land-clearing activities shall be construed as disturbing in excess of the minimum area set forth herein for any given project, regardless of the size or location of the boundaries of any separate tax parcel involved.

§ 87-15. (Reserved)

ARTICLE IV
General Supplementary Regulations

§ 87-16. Parking, loading, access and traffic standards.

- A. Off-street parking, loading and unloading facilities shall be provided as necessary in connection with every use. One-family and two-family residential uses shall be provided with two off-street parking spaces per dwelling unit. Parking needs with respect to all other uses shall be determined in conjunction with special use and 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. The National Parking Association and the Urban Land institute are examples of such industry sources.
 - (2) The characteristics of the proposed customers, employees, residents, occupants or visitors to a given facility and the availability of municipal parking to satisfy the needs of the business. 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 shall be applied by the Planning Board or the Code Enforcement Officer, as the case may be:
 - (a) Home occupations: one space per 100 square feet of floor area in use.
 - (b) Hotels/motels: one space per rental room.
 - (c) Industrial uses: one space per 400 square feet of floor area.
 - (d) Commercial uses: one space per 250 square feet of floor area.
 - (e) Places of public assembly: one space per 5 seats.
 - (f) Offices: one space per 300 square feet of floor area.
 - (g) Restaurants: one space per 50 square feet of floor area.
 - (h) Senior housing: one space per dwelling unit.
 - (i) Vehicle service establishments: four spaces, plus one per employee.
- (7) If the Planning Board approves fewer than the number of spaces set forth in Subsection A(6) above, an alternative plan shall be prepared by the applicant and an area on the site set aside or

reserved for future parking. The set-aside area shall be landscaped.

- B. Each parking space shall consist of not less than an average of 270 square feet of usable area for each motor vehicle, including interior driveways, driveways connecting the garage, or parking space, with a street or alley. Garages, carports, and driveways not in the public right-of-way may be considered parking spaces. The minimum parking space size shall be nine feet by 19 feet.
- 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 rights-of-way. Lighting shall be shielded to prevent upward glare as well.
- D. All parking areas which are designed to accommodate 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 (see § 87-20). The following are guideline standards the Planning Board may apply:
 - (1) No more than 12 parking spaces should be allowed in a continuous row uninterrupted by landscaping. This requirement may be waived at the discretion of the Planning Board to achieve a superior design.
 - (2) No parking areas should 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 should be minimized and limited to connections from one lot to another and to the public highway or through road.
 - (3) Parking areas should generally be located in the rear or side yard of any use, with the principal building situated near the front lot line as permitted by the

Schedule of District Regulations.⁸ 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.

- E. Any building erected, converted or enlarged for commercial, office, manufacturing, wholesale, institutional or similar use shall, in addition to the off-street parking required above, provide adequate off-street areas for the loading and unloading of vehicles. Public rights-of-way shall, under no circumstance, be used for the loading or unloading of materials. The minimum-size loading space shall be 60 feet in depth and 12 feet in width, with an overhead clearance of 14 feet.
- F. Access to and from all nonresidential off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well-defined separate or common entrances and exits and shall comply with the following provisions:
 - (1) Access drives shall not open upon any public right-of-way within 50 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 100 feet. Access drives onto state highways shall be subject to New York Department of Transportation standards.
 - (2) There shall be no more than one entrance and one exit to any business or commercial use 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

8. Editor's Note: The Schedule of District Regulations is included at the end of this chapter.

shall one entrance and exit be located within 50 feet of any other on the same property or adjoining property along the same public right-of-way. Previously developed nonconforming lots, however, may be exempted from this requirement.

- (3) All access drives shall be subject to the requirement of obtaining a road occupancy or street encroachment permit from the Village of Liberty or the New York State Department of Transportation, as the case may be, and approval of any permits hereunder may be conditioned upon the application for and/or receipt of such permits from these authorities.
- G. All nonresidential 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 20 feet in depth landscaped according to standards provided herein for such landscaping.
- H. Traffic impact study.
 - (1) 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 500 trip-ends per day based on the following daily rates:
 - (a) Residential uses: 9.6 trip-ends per dwelling unit.
 - (b) Industrial uses: 3.3 trip-ends per employee.
 - (c) Restaurants: 7.9 trip-ends per seat.
 - (d) Fast-food restaurant: 23.9 trip-ends per seat.
 - (e) Convenience market: 605.6 trip-ends per 1,000 square feet of gross floor area.

- (f) Supermarket: 177.6 trip-ends per 1,000 square feet of gross floor area.
 - (g) Car wash: 108.0 trip-ends per car stall.
 - (h) Offices: 6.0 trip-ends per employee.
 - (i) Other commercial uses: 50.0 trip-ends per 1,000 square feet of gross floor area.
 - (j) Institutional uses: 4.0 trip-ends per employee.
 - (k) Other uses: See "Trip Generation," Institute of Transportation Engineers.
- (2) 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.

§ 87-17. Floodplain development standards.

There is hereby created a special zoning district, the boundaries of which shall be congruent with those areas identified as special flood hazard areas on the Flood Hazard Boundary Maps for the Village of Liberty, as issued by the Federal Insurance Administration or its successor. This district shall be an overlay zone, within which the normal provisions of the zoning districts as mapped on the Official Zoning Map shall apply, except that no development shall be permitted which does not comply with the provisions of Chapter 34, Flood Damage Prevention of the Village of Liberty Code, as amended.

§ 87-18. Home occupation regulations.

- A. Home occupations are hereby defined as any occupation or business activity that occurs within structures or on property where the primary land use is residential, and where the occupation or business is clearly incidental to such residential use. Such uses may include professional occupations, artisan activities, personal service shops and similar enterprises.
- B. Home occupations not exceeding the threshold for minimum impact as provided below, are permitted as special uses within specified districts, provided they do not detract from the residential character, appearance, or makeup of the neighborhood in which the business is located. The following review criteria shall be used to determine if this standard will be met:
 - (1) Extent of the business: whether or not the residential use will be the primary use of the property. Factors that shall be used to determine the primary use of the property shall include, but are not limited to, the area of the home or property used for the business (limited to a maximum of 30%), the number of nonresident employees (limited to two) and the amount of time the business will be open to the public on a daily basis (limited to 10 hours).
 - (2) Appearance from an adjacent street: whether or not the use of the property as a business is distinguishable from an adjacent street. Except for a nonilluminated, permanent identification sign no larger than four square feet in size attached to the principal structure, there shall be nothing that occurs on the property that can be observed from adjacent streets that make it readily apparent that a business is being operated on the premises. In cases where the principle structure is obscured from the street or the structure is set back more than 50 feet from the property line, a nonilluminated ground sign not to exceed four square feet may be used. Factors

for evaluating this standard shall be that the residential dwelling not be altered to change its residential appearance. No activity related to the conduct of the home-based business shall be permitted to occur in such a manner as to be obtrusive to the neighborhood, attract undue attention to the business or adversely impact the residential character of the neighborhood.

- (3) Impact on the neighborhood: whether or not the business activity will cause a nuisance to surrounding property owners; adversely impact the peace, health, or safety of neighborhood residents; and/or create a deviation from the residential character of the neighborhood. Factors for evaluating this standard shall be:
 - (a) Traffic: whether or not the business will generate traffic that is excessive and/or detrimental to the neighborhood. A business will be allowed to generate a maximum of 24 vehicle trips per average weekday, Saturday and Sunday. However, based on the characteristics of a specific neighborhood, these amounts may be lowered or raised. The factors to be used for such a determination shall 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 existing traffic levels on the adjacent street.
 - (b) Parking: whether or not parking problems could result from the business use. Factors that shall be used to evaluate this criteria include, but are not limited to, the following:
 - [1] Parking shall be provided on the property; and

- [2] Such parking shall be on a gravel or other improved surface of adequate capacity to accommodate the total number of visitors expected at any one time.
 - (c) Nuisance: whether or not the business activity would cause a nuisance to surrounding property owners. Existing property maintenance codes, fire codes, building codes, environmental and safety codes and other related local laws shall be the primary basis for evaluating the potential for creating such a nuisance.
- C. Minimal-impact home occupations shall be processed as accessory uses hereunder and permitted everywhere in the Village, provided that they meet the above standards. "Minimal impact" shall mean:
- (1) No employees working on the premises other than family members residing thereon;
 - (2) No outside storage of equipment, vehicles or materials used in the business other than an automobile for personal transportation; and
 - (3) No regular traffic to the site for other than mail service and occasional (e.g., semiweekly) deliveries and client/customer visits.
- D. No home occupation, having once been permitted or established, shall be added to, expanded, enlarged or otherwise increased or changed substantially in character without complying with this chapter, and such permission or establishment shall not be a basis for a later application to establish a principal commercial use. Moreover, the conversion of a residence with a home occupation to a commercial use by the abandonment of the residence or sale, rent or transfer of the business to a party which does not reside on site is strictly prohibited unless the business is then moved off site.

§ 87-19. General commercial and industrial standards.

Wherever commercial, manufacturing or other nonresidential uses or improvements and changes to such uses, with the exception of agricultural activities and home occupations, are proposed, the following performance standards shall apply. The Code Enforcement Officer shall ensure these standards are met prior to issuing certificates of occupancy for such uses and may require the applicant(s) to provide documentation of compliance.

- A. Where a commercial or manufacturing use is contiguous to an existing residential use in any district (including those situated on the opposite side of a highway) or any approved residential lot in a residential district, the Planning Board may require that the minimum front, side and rear yards be increased by up to 50%. The Board may also require, for purposes of separating incompatible activities or shielding the residence from negative impacts, that a buffer consisting of a solid fence of wood and/or a twenty-foot-wide dense evergreen planting not less than six feet high be maintained, unless the properties are in the same ownership or the full width of the yard is already wooded. See also the landscaping standards contained herein.
- B. All activities involving the manufacturing, production, storage, transfer or disposal of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Fire-fighting and fire-suppression equipment and devices shall be provided pursuant to National Fire Protection Association guidelines. The burning of waste materials in open fires is prohibited. Details of the potential hazards and planned safety and accident response actions shall be provided by the applicant, and the Planning Board may require greater front, side and rear yards and/or fencing.
- C. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting

the operation of any equipment other than that of the creator of such disturbance.

D. Sound pressure level; noise.

- (1) The maximum sound pressure level radiated by any use or facility (other than transportation facilities) at the property line shall not exceed the value set forth below:

Octave Band Range (cycles per second)	Sound Pressure in Decibels
20 to 30	60
300 to 2,400	40
Above 2,400	30

- (2) The sound pressure level shall be measured with a sound level meter and associated actable band analyzer conforming to standards prescribed by the American Standards Association. If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., one or more of the corrections provided below shall be applied to the above-decibel level limits:

Type of Location or Character of Noise	Correction in Decibels
Daytime operation only	+5
Noise operates less than 20% of any hour	+5
Noise operates less than 5% of any hour	+10
Noise is impulsive character (hammering, etc.)	-5

Type of Location or Character of Noise	Correction in Decibels
Noise is of period character (hum, screech, etc.)	-5
Property is in C District and 500+ feet from residential zone	+5
Property is in M District and 500+ feet from residential zone	+10

- (3) The use of outdoor public address systems is discouraged except for emergency purposes.
- E. No vibration shall be permitted on a regular or continuing basis which is detectable without instruments at the property line.
- F. Light sources shall comply with the standards of § 87-21 hereof. All lighting and use of mirrors shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians and land uses in proximity to the light source. No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or other sources, so as to be visible at the property line on a regular or continuing basis, shall be permitted.
- G. No emission shall be permitted on a regular or continuing basis from any chimney, or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 on the Ringelmann Smoke Chart, U.S. Bureau of Mines Information Circular 8333.
- H. No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted on a regular or continuing basis which can cause any damage to health,

animals, vegetation, or other forms of property or which can cause any excessive soiling.

- I. All activities involving the possible contamination of surface or groundwater shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and planned safety devices and contamination response actions shall be provided by the developer.
- J. Whenever a vehicle and equipment sales, mechanical and body repair use is proposed as a special use or as an expansion of an existing nonconforming use, the following additional performance standards shall apply:
 - (1) All mechanical and body repair work shall be performed within buildings.
 - (2) All automobile or vehicle parts, new or used, shall be stored within buildings.
 - (3) Vehicles which are temporarily on the property awaiting to be repaired shall be stored in an area which meets the minimum yard and buffer requirements applicable for the district and the use. No more than eight such vehicles shall be kept on site at any one time, and all shall be licensed and operable at all times. The Planning Board may further limit such capacity on the basis of available building and parking area.
- K. All industrial uses, processing and storage shall be within fully enclosed structures, and no tanks, cupolas, vents or other apparatus peculiar to the processing shall be visible outside the approved buildings. The facade of buildings and structures in industrial uses shall be compatible with adjacent development and shall be fully landscaped in accordance with the requirements therefor that are contained herein.

§ 87-20. Landscaping, screening and buffer areas.

- A. Purpose. The following standards are intended to enhance the appearance and natural beauty of the Village and to protect property values through preservation and planting of vegetation, screening and landscaping material. Specifically, these standards are intended to enhance the appearance of major travel corridors and business areas; to reduce excessive heat, glare and accumulation of dust; to provide privacy from noise and visual intrusion; and to prevent the erosion of the soil, excessive stormwater runoff and the consequent depletion of the groundwater table and the pollution of water bodies.
- B. General requirements. The following provisions shall apply to any nonresidential use in any zoning districts:
- (1) All lots shall be graded and seeded and all other applicable requirements of these landscaping regulations imposed by the Planning Board 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. An irrevocable letter of credit or other performance guarantee acceptable to the Planning Board, Village Board and Village Attorney shall be posted in an amount sufficient to cover the cost of such grading and seeding when the applicant cannot perform this work due to seasonal impracticalities.
 - (2) Landscaping, trees and plants required by these regulations shall be planted in a growing condition according to accepted horticultural practices, and they shall be maintained in a healthy growing condition. Any landscaping, trees and plants which are in a condition that does not fulfill the intent of these regulations shall be replaced by the property owner during the next planting season. An irrevocable letter of credit or other performance guarantee acceptable to the Planning Board, Village Board and Village Attorney shall be posted in an

amount sufficient to cover the cost of such landscaping when the applicant cannot perform this work due to seasonal impracticalities.

- (3) A screening fence or wall required by these regulations shall be maintained by the property owner in good condition throughout the period of the use of the lot subject to the following conditions: Any land that is or has been designated or required to be screening area, buffer area or paved area pursuant to an approval by the Village Board, Planning Board or Zoning Board of Appeals of any grant of an application for a change of zone, variance, special permit, subdivision or site plan approval or which is required by ordinance or local law must be maintained by the owner of the property or any of the owners, successors in the interest or assignees.
- (4) Where required by the Planning Board, all landscaping, trees and planting material adjacent to parking areas, loading areas or driveways shall be protected by barriers, curbs or other means from damage by vehicles and from stormwater runoff.
- (5) The preservation of mature shade trees, ridgelines, vegetation and unique site features, such as stone walls, shall be required to the maximum practical extent. These, however, may be used to meet requirements of this section, provided that the Code Enforcement Officer or Planning Board, as the case may be, determines the purpose of this section is achieved.
- (6) Where lot size and shape or existing structures make it infeasible to comply with the requirements for a front landscaped area or landscaped parking area, the Planning Board may approve planters, plant boxes or pots containing trees, shrubs and/or flowers to comply with the intent of these regulations.
- (7) Buffer area.

- (a) A buffer area shall be required along all boundaries of a nonresidentially zoned or utilized lot abutting any lot in a residential district. The regulations shall also apply when the nonresidentially zoned lot and the lot in the residential district are separated by a road. Such buffer area shall be located within the boundaries of the subject property or owned or controlled by the same property. The minimum width of buffer areas shall be as follows:
- [1] Downtown Commercial District: 20 feet.
 - [2] Commercial District: 30 feet.
 - [3] Any district other than a residential district adjoining land owned or maintained by New York State, Sullivan County or the Village of Liberty that has current or potential use as parkland: 25 feet.
- (b) The 20 feet nearest the residential district shall be planted with shrubs, trees and other plantings acceptable to the Planning Board and having a uniform height of not less than five feet above the ground at the time of planting and set a distance suitable for the proper maturation of such planting and shall be properly maintained to afford an effective screen between the two districts. A landscaped earthen berm, wall or fence of location, height, design and materials approved by the Planning Board may be required for any portion of the required planting and/or buffer area. Where the existing topography and/or landscaping provides adequate screening, the Planning Board may accept the existing planting and/or buffer area as the required planting. The Planning Board may also require an increase or permit a decrease in these requirements if the

Board believes that said variation will better accomplish the objectives of this section.

- C. Front landscaped area. A front landscaped area shall be required for all uses in all zoning districts. The required landscaped area shall be covered with grass and other appropriate trees and shrubs unless maintained in the existing natural cover.
- (1) As a minimum, for all nonresidential uses one shade tree having a minimum caliper of three inches measured four feet from the base shall be planted within the front landscaped area for each 40 feet or fractions thereof of lot frontage.
 - (2) In the DCC Downtown Commercial District, a landscaped strip shall be provided a minimum depth of 10 feet contiguous to the front lot line of the property.
 - (3) In districts other than the C Commercial District, a landscaped strip shall be provided a minimum depth of 20 feet contiguous to the front lot line of the property.
- D. Landscaped parking area. In addition to front yard landscape areas and buffer area requirements, parking areas shall comply with the following minimum standards:
- (1) All uses required to provide 20 or more off-street parking spaces shall have at least 10 square feet of interior landscaping within the paved portion of the parking area for each parking space and at least one tree with a minimum two-and-one-half-inch caliper for every 10 parking spaces or fraction thereof.
 - (2) Each separate landscaped area shall contain a minimum of 100 square feet, shall be planted with grass or shrubs and shall include at least one tree of not less than two-and-one-half-inch caliper.

- (3) A landscape area shall be provided along the perimeter of any parking area except that portion of the parking area which provides access.
- E. Planning. A landscape plan shall be prepared as part of any site plan/special use or site plan application but may waive inapplicable requirements pertaining to particular uses. Such a plan may also be required whenever any nonresidential use is proposed in any district so as to buffer parking areas and buildings from the highway, each other and other uses. Where it is determined that a proposed 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 by the Planning Board. The landscape plan, if required, shall specify locations of all mature shade trees or other species of six-inch caliper or greater and indicate existing vegetation to be removed or preserved. It shall demonstrate 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. The Planning Board, in reviewing a landscape plan, may employ the assistance of design professionals. The Planning 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 ways and pedestrianways 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.
- (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.

§ 87-21. Lighting.

- A. Lighting for all commercial, residential, institutional and industrial uses shall be shielded to prevent glare and spillover of light onto adjoining properties.
- B. All lighting shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians and land uses in proximity to the light source.
- C. No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or other sources, so as to be visible at the property line on a regular or continuing basis, shall be permitted.
- D. Lighting contours shall be required on site plans for purposes of determining compliance with this section. Average footcandles at the property line shall be less than 1.0, except at site entrances.
- E. Full globe lights shall not be permitted.
- F. Light pole heights shall not exceed building heights, and none shall exceed 25 feet in height.

- G. All lighting over 2,000 lumens in strength shall meet the full cutoff standard of the Illuminating Engineering Society of North America (IESNA).
- H. All site activity areas, including parking lots and walkways, shall meet minimum IESNA standards and exceed those standards by no more than 25%.
- I. All gasoline canopy lighting shall be fully recessed, and the maximum light level under the vehicular canopy shall not exceed 20 horizontal maintained footcandles.

§ 87-22. through § 87-25. (Reserved)

ARTICLE V

**Supplementary Regulations Applicable to Particular
Uses**

§ 87-26. Manufactured (mobile) homes and parks.

Manufactured (mobile) homes and parks shall be permitted only in C Commercial Districts. Manufactured (mobile) homes shall be permitted only in approved manufactured (mobile) home parks. Manufactured (mobile) home parks shall also be considered special uses. The Planning Board shall, in reviewing and acting upon such special use applications, apply the following standards and review criteria:

- A. The location of the park shall be one suitable for such use as determined by the Planning Board, considering report offered by the Board's consultants, with proper drainage and provisions for stormwater control such that the peak flow rate of water leaving the site after development shall not be greater than prior to development.
- B. There shall be documentation of the availability and adequate capacity of all utility providers to service the park. Off-site or centralized water facilities shall be provided.

- C. The park shall be designed to provide maximum open space consistent with the minimum mobile home lot size requirements of the Manufactured Home Law and offer buffering of individual mobile homes from each other and from other adjoining lot owners. It shall be landscaped so as to develop and maintain a high-quality aesthetic environment and neighborhood character for prospective new and existing residents.
- D. Provisions shall be made for outside storage space, and these shall not in any way interfere with emergency access.
- E. Provisions shall be made to control potential nuisance situations such as accumulation of unused materials or vehicles.
- F. Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided. A minimum of 10% of the land area of the park or 1/2 acre, whichever is less, shall be devoted to this purpose and completed prior to the issuance of the first permit.
- G. There shall be adequate water supplies to support the proposed water system without causing a detrimental impact on the public or adjoining water supplies, and evidence of this shall be provided and professionally reviewed.
- H. The management and operations plan for the park shall provide for maintenance of all common facilities and ensure that the purposes and requirements of this chapter are met. It shall also provide for limitation of occupancy to mobile homes meeting U.S. Department of Housing and Urban Development regulations under the Manufactured Housing Act.
- I. Mixed-use residential developments wherein mobile homes and other one-family detached dwellings are both provided shall be encouraged where the other criteria contained herein can be met. All other one-family detached

development, however, shall comply with the requirements of this chapter and the Village of Liberty Subdivision Regulations.⁹

J. Manufactured (mobile) homes shall:

- (1) Be new at the time of placement;
- (2) Possess a manufactured peaked shingled roof; and
- (3) Be placed on a monolithic concrete slab with concrete block wall skirting.

§ 87-27. Planned commercial development (industrial, office parks and commercial).

To facilitate the growth of employment and ensure a viable tax base for the Village of Liberty and to prevent conflicts of incompatible industrial uses, planned industrial and office parks and shopping centers are permitted in C and M Districts, subject to the following:

- A. The entire lot shall be planned and designed as a unit to provide maximum functional efficiency and aesthetic quality. In case where detailed building plans are not available, design guidelines for siting, orientation, size and materials of buildings shall be noted on the plans submitted for site plan review. Certain facilities, such as roadways, parking areas, utilities, drainage, screening and other landscaping and employee recreation facilities, may be shared among the uses in the industrial office park or shopping center.
- B. Exterior walls of adjacent buildings shall be no closer than 1 1/2 times the height of the higher building wall, but in no case closer than 50 feet.

9. Editor's Note: For the Land Subdivision Regulations, see the Appendix, Part I, of the Village Code.

- C. The standards set forth for light industrial uses shall be adhered to for planned development proposed for such use.
- D. All facilities shall be served by approved sewer and water supply systems, and the Planning Board may, as a condition of approval of such developments, require the improvement of any necessary facilities off site, including access roads necessary to serve such development.
- E. In all cases, the uses may occupy leased premises or the premises may be owned as part of the condominium or cooperative or the premises may be subdivided and sold; however, there must be a central managing agency, acceptable to the Village Board, that is responsible for the improvement and maintenance of common facilities and for the general management of the development.
- F. In all cases, the development shall be subject to special use approval in accordance with the procedures set forth herein. The Planning Board may waive standards for side yard setbacks within the development, provided that the minimum requirements are met along the perimeter of the development. Any such waiver shall refer to standards that the Planning Board finds to be more appropriate for the specific site and the uses proposed and shall be subject to review by the Fire Inspector.

§ 87-28. Planned unit developments.

- A. Purposes.
 - (1) It is the purpose of this section to permit, but not require, upon receipt and approval by the Village Board of an application made by the landowner(s), the establishment of a zoning classification entitled "Planned Unit Development (PUD) District." Such district may be permitted for the following purposes:
 - (a) A maximum choice in the types of housing, lot sizes and community facilities available to

present and future Village residents or visitors at all economic levels.

- (b) More usable open space and recreation areas.
 - (c) More convenience in location of certain accessory commercial and service areas.
 - (d) The preservation of trees, outstanding natural topography and geological features and the prevention of soil erosion.
 - (e) A creative use of land and related physical development which allows an orderly transition from rural to urban uses.
 - (f) An efficient use of land resulting in small networks of utilities and streets and thereby lower housing costs.
 - (g) A development pattern in harmony with objectives of the Joint Liberty Comprehensive Plan.
 - (h) A more desirable environment than would be possible through the strict application of other articles of this chapter or the Village Subdivision Regulations.¹⁰
- (2) Generally, these floating districts are intended to provide landowners who wish to develop functionally integrated residential or resort communities or complexes with the flexibility to do so, provided that sufficient open space will be preserved and the development is designed with safeguards to protect the public health, safety and welfare.

B. Procedures. The Village Board shall establish PUD Districts in the following manner:

10. Editor's Note: For the Land Subdivision Regulations, see the Appendix, Part I, of the Village Code.

- (1) The owner(s) of the land in a proposed PUD District shall initially apply to the Village of Liberty Planning Board for the establishment of a PUD - Planned Unit Development District. The application shall be in writing and include a sketch plan.
 - (a) Said sketch plan shall be drawn to scale, though it need not be to the precision of a finished engineering drawing, and it shall indicate the following information:
 - [1] The location and types of the various uses and their areas in acres.
 - [2] Delineation of the various residential areas, indicating for each such area its general location, acreage and composition in terms of total number of dwelling units, approximate percentage allocation of dwelling units by type and the calculation of the residential density in dwelling units per gross acre of site area.
 - [3] The general outlines of the interior roadway system and all existing public and private rights-of-way and easements.
 - [4] The location and area of the common open space.
 - [5] The overall drainage system.
 - [6] A location map showing uses and ownership of abutting lands.
 - [7] Provisions of sewers, water and other required utilities.
 - (b) In addition, the following documentation shall accompany the sketch plan:

- [1] Evidence that the proposal is compatible with the goals of the Joint Liberty Comprehensive Plan.
 - [2] How common open space is to be owned and maintained.
 - [3] If the development is to be staged, a general indication of how the staging is to proceed. The sketch plan shall show the total project, whether or not the proposed development is to be staged.
- (2) The Planning Board shall review the sketch plan and related documents and render a report to the applicant on the acceptability of the proposal, along with recommendations for changes or improvements, if any. An unfavorable report shall state clearly the reasons therefor and, if appropriate, advise the applicant what revisions are necessary to receive acceptance.
 - (3) Upon receipt of the Planning Board's report, which shall be made within 62 days of the meeting at which the sketch plan is initially presented, the applicant shall submit a preliminary development plan for the project to the Planning Board, including but not limited to all information required under the Village of Liberty Subdivision Law and for purposes of compliance with the State Environmental Quality Review Act (SEQRA). The applicant shall also submit, in the form of a letter or brief, information indicating how the development will specifically comply with or meet the special use and site plan review criteria contained in this chapter and the following additional information:
 - (a) An area map showing the property proposed for PUD and adjacent property, if any, owned by the applicant and all other properties, roads

and easements within 500 feet of the applicant's property.

- (b) The preliminary development plan shall show the location, proposed uses and height of all buildings; locations of all parking and truck loading areas, which egress thereto; location and proposed development of all open spaces; location of all existing or proposed site improvements; description and location of water supply, sewerage system and storm drainage system; location of all signs and designs of lighting facilities; the extent of building area proposed for nonresidential uses, if any; the location of existing watercourses and wetlands; and the location of municipal and fire, light and school district boundaries.

(4) Action on preliminary plan.

- (a) Within 62 days of the receipt of a completed preliminary development plan, the Planning Board shall review such submission, act upon the SEQRA submission, conduct a public hearing on the development plan and recommend action to the Village Board regarding establishment of a PUD District to accommodate the project. It shall concurrently approve, disapprove or approve with the modifications the preliminary development plan, conditioning any approval on action of the Village Board with respect to the PUD District.

- (b) The Planning Board shall approve the plan if it finds that:

- [1] The proposed uses will not be detrimental to present and potential uses in the area surrounding the proposed district.

- [2] Existing and future highways are suitable and adequate to carry anticipated traffic associated with the proposed district.
 - [3] Existing and future utilities are or will be adequate for the proposed development.
 - [4] The development plan complies with the requirements of this chapter and is consistent with the Joint Liberty Comprehensive Plan.
- (c) Preliminary approval by the Planning Board shall be in the form of a written statement to the applicant and may include recommendations to be incorporated in the final site plan. If the preliminary development plan is disapproved, the statement of the Planning Board shall contain the reasons for disapproval. The Planning Board may recommend further study and resubmission of a revised preliminary development plan.
- (5) When the Planning Board has approved a development plan for a proposed district, the plan shall be filed in the office of the Village Clerk, and the Village Board shall then proceed to consider amendment of the law in accordance with the Village Law, Code of the Village of Liberty and other applicable law, conducting a hearing and acting upon the same within 90 days of the meeting in which the Planning Board's recommendation is received. The Village Board shall, where appropriate, provide for County Planning Department review of the proposal and may attach conditions to its approval. When any planned district does not substantially develop in accordance with the approved preliminary development plan for a period of three years from the effective date of its establishment, and provided that it shall then appear that rights vested in persons acting in good faith in reliance on such

zoning classification will not be prejudiced thereby, the Village Board, upon resolution and no earlier than 62 days following written notice to the applicant and general publication in a newspaper of general circulation, may declare the change in classification to a PUD District voided. The Village hereby exercises its authority under § 10 of the Municipal Home Rule Law to supercede § 7-708 of the Village Law so as to permit voiding of a zoning change without resorting to further rezoning procedures. **[Amended 12-17-2008 by L.L. No. 8-2008]**

- (6) Final approval.
 - (a) After the Planning Board has approved the preliminary development plan, and provided the Village Board has approved the establishment of the PUD District, the applicant shall prepare a final development plan, including all information required under the Land Subdivision Regulations,¹¹ and submit it to the Planning Board for final approval.
 - (b) Where more than 12 months have elapsed between the date of preliminary approval and the time of submission of the final development plan, and where the Planning Board finds that conditions affecting the plan have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary development plan for further review and possible revision prior to accepting the proposed final development plan for approval by the Planning Board. The applicant(s) may, or the Planning Board may require the applicant to, submit the final development plan in stages.

11. Editor's Note: For the Land Subdivision Regulations, see the Appendix, Part I, of the Village Code.

- (c) The final development plan shall conform substantially to the preliminary development plan approved by the Planning Board and meet all requirements set forth in the Subdivision Ordinance pertaining to final plans. It shall incorporate any revisions or other features that may have been recommended by the Planning Board and/or the Village Board at the time of preliminary review.
- (d) Within 62 days of the receipt of a completed application for final development plan approval, the Planning Board shall review and act on such submissions and so notify the Village Board. If no decision is made within 62 days, the final development plan shall be considered approved.
- (e) Upon approving an application, the Planning Board shall endorse its approval on a copy of the final development plan and shall forward it to the Code Enforcement Officer, who may then issue a building permit to the applicant if the project conforms to all other applicable requirements of the Village.
- (f) If the application is disapproved, the Planning Board shall notify the applicant and the Village Board of its decision, in writing, and its reasons for disapproval.
- (g) Final development plan approval shall constitute final development plan approval under the Village Land Subdivision Regulations and the provisions of § 8-728 of the Village Law, and a copy shall be filed in the Sullivan County Clerk's office. **[Amended 12-17-2008 by L.L. No. 8-2008]**
- (h) No building permits shall be issued for construction within a PUD District until all

requirement improvements are installed or a performance guarantee is posted in accordance with the procedures provided by the Village Subdivision Ordinance and § 7-730 of the Village Law. **[Amended 12-17-2008 by L.L. No. 8-2008]**

C. General requirements.

- (1) Location. A PUD District may be permitted in any R-1, R-2, C or M District.
- (2) Minimum site area. A PUD District should comprise at least 20 contiguous acres of land.
- (3) Density and open space. The density and open space standards applicable to conservation subdivisions shall also apply to all PUD projects.
- (4) Utilities. All uses situated in a PUD District shall be served by central water and sewerage systems. All water, sewer and gas lines and all other lines providing power and communication service shall be installed underground in the manner prescribed by the appropriate state and local agency and/or utility company having jurisdiction.
- (5) Permitted uses. All residential uses, except mobile homes, hotels, motels and resorts, shall be permitted in PUD Districts. No commercial uses shall be permitted except as may be provided through the zoning amendment made to allow for the PUD.
- (6) Other zoning regulations. With the exception of lot and yard requirements 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

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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 one-family residential dwelling.

- (7) Ownership. The land proposed for a PUD District may be owned, leased or controlled either by an individual a corporation or a group of individuals or corporations. PUD District applications shall be filed by the owner or jointly by all owners of the property included in the application. In the case of multiple ownership, the approved plan shall be binding on all owners.
- (8) Organization. A PUD District may be organized as a condominium, a cooperative, or a leasehold or held in individual or corporate ownership. If a homeowners' association (HOA) is to be established, and one shall be required if any property is to be held in common, such HOA shall be organized as provided for conservation subdivisions in the Village Subdivision Law.¹²

§ 87-29. Multifamily residential uses.

- A. Multifamily dwelling projects shall be considered major subdivisions. This "major subdivision" classification shall apply to all subdivisions of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multifamily dwelling projects, accordingly, will be made to the Village in the manner provided under the Village Land Subdivision Regulations. The subdivider shall also submit all information required by such regulations plus the following additional data;

12. Editor's Note: For the Land Subdivision Regulations, see the Appendix, Part I, of the Village Code.

- (1) An application for approval on a form to be supplied by the Village or, in the absence of such form, by a letter or brief from the developer or his or her representative indicating how the development will specifically comply with or meet the criteria set forth herein.
- (2) A proposed plot plan showing the approximate (generally within five feet) locations of all buildings and improvements, including parking areas, planting strips (if any), signs, storm drainage facilities, water supply, sewage treatment and collection systems and the specific areas provided as open space in connection with the requirements of this chapter. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas (apart from the open space referenced below), lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Village of Liberty. Setbacks from property lines, improvements and other buildings shall also be indicated.
- (3) A schedule or plan and proposed agreement(s) either with the Village or a homeowners' association for the purpose of dedicating, in perpetuity, the use and/or ownership of the recreation area and open space required by this chapter to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions but shall, in any event, provide to the satisfaction of the Village that maintenance and use of the property, regardless of ownership, be restricted to either:
 - (4) Activities intended for the sole benefit of the occupants of the particular project proposed; or
 - (5) Permanent open space as hereinafter provided.

- B. The Planning Board shall act on the preliminary development plan and special use application concurrently, provided that an environmental assessment is also conducted pursuant to the New York State Environmental Quality Review Act. No building permit shall be issued to the applicant, however, until all conditions attached to the approval of any preliminary development plan shall have been satisfied, and nothing herein shall be construed as permitting the issuance of a building permit prior to preliminary approval and the filing of financial guarantee as required. This requirement notwithstanding, the building permit application shall be made with the development plan and shall, if granted, be valid for a period equal to that for preliminary development plan approval. If the preliminary development plan shall be rejected, no building permit shall be granted.
- C. Following Preliminary Plan approval, the developer shall provide for the installation of required or proposed improvements, including but not limited to streets, parking areas, storm drainage facilities, recreational facilities and lighting. Building improvements shall similarly be completed or guaranteed prior to the applicant's request for final development plan approval. No certificate of occupancy (where the same is required) shall, however, be issued until such time as:
- (1) Final development plan approval shall have been granted in accordance with the procedures and requirements of this chapter; and
 - (2) Buildings have been completed and inspected by the Village Code Enforcement Officer.
- D. Complete final building plans shall also be submitted as part of the final development plan application.
- E. No person shall sell, transfer, lease or agree or enter into an agreement to sell or lease any land and/or buildings or interests in the individual dwelling units to be created, or erect any building thereon, except in accord with the

provisions of this chapter, unless and until final development plan approval shall have been granted (unless the improvements shall have been guaranteed), and the plan has been recorded in the office of the Sullivan County Clerk.

- F. Multifamily dwelling density shall be limited to the same number of dwelling units per acre that would be permitted within the district if the parcel on which the units are to be constructed were to be developed for one-family residential use or a maximum of six units per acre (provided parking requirements can be fully met), whichever is less. Density shall be calculated by taking the total acreage of the development and 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 shall be assumed to be 25 feet.
 - (3) Land contained within the boundaries of easements previously granted to public utility corporations providing electrical or telephone service.
 - (4) All wetlands, floodplains, slopes of twenty-five-percent or greater grade, water bodies and other undevelopable areas (unless such areas are used for some active recreational purpose such as trails or employed for some other development purpose such as a stormwater detention area);
- G. All areas of a multifamily development not conveyed to individual owners and not occupied by buildings and required or proposed improvements shall remain as permanent open space or be dedicated to recreation area to be used for the sole benefit and enjoyment of the residents of the particular units being proposed. No less than 50% of

the tract shall be used for this purpose, and fees in lieu of dedication may not be substituted for such space. Such open space shall be subject to the following regulations:

- (1) No less than 50% of the open space to be provided (25% of the total tract) shall be dedicated to recreational area for the sole benefit and enjoyment of the residents of the particular units proposed. Recreation areas (as distinct from other open space) shall be immediately adjacent (part of the same parcel and contiguous) to the proposed units and freely and safely accessible to all residents of the development. They shall not be used to fulfill open space requirements or provide recreational areas for residents of other units, excepting as provided for in Subsection G(2) below. They shall be usable for active recreational activities and shall not include wetlands, quarries, slopes over 25% in grade, water bodies or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas.
- (2) Land designated as open space shall be permanently maintained as such and not be separately sold, used to meet open space or recreation area requirements for other developments, subdivided or developed, excepting that a holding zone may be reserved for future development pursuant to density and other zoning requirements as they presently exist, provided that such lands are specifically defined and indicated as "reserved for future development" on all development plans. Such lands shall not be included in calculating permitted density for the proposed development. These provisions, however, shall not be construed as granting or reserving to the developer any rights or privileges to develop on the basis of a "preapproved plan" if density or other zoning requirements shall have been modified to preclude such development.

- (3) Open space areas shall be permanently maintained so that their use and enjoyment as open space are not diminished or destroyed. Such areas may be owned, preserved and maintained by dedication to a property owners' association which assumes full responsibility for maintenance of the open space and/or deed-restricted private ownership which shall prevent development of the open space, provide for its maintenance and protect the rights of owners or occupants of dwelling units to use and enjoy, in perpetuity, such portion of the open space as shall have been dedicated to recreation area for the project. This is intended to allow the owner/developer to retain ownership and use of a portion of the property (for hunting, fishing, etc.), provided that the permanence of the open space is guaranteed.
 - (4) Whichever maintenance mechanism(s) is used, the developer shall provide, to the satisfaction of the Village Attorney and prior to the granting of any final development plan approval, for the perpetual maintenance of the open space and also the use and enjoyment of the recreation area by residents of the units being approved. No lots shall be sold nor shall any building be occupied until and unless such arrangements or agreements have been finalized and recorded.
 - (5) Developments of 50 units or more shall provide 1/2 acre of playground area per 50 units unless restricted to adult occupancy only.
- H. All multifamily developments shall be served with central sewage facilities and water supplies. Effluent disposal areas shall also be subject to the setback requirements applicable to other multifamily buildings and structures as a minimum.
- I. The following design criteria shall apply to multifamily developments;

- (1) There shall be no more than 10 dwellings in each multifamily building.
- (2) No structure shall be constructed within 25 feet of the edge of any access road to or through the development or within 10 feet of the edge of any parking area. No buildings shall be located within 100 feet of any pond, reservoir, lake or watercourse that is part of a water supply system.
- (3) Access roads through the development shall comply with minor street requirements as specified in this chapter, and no parking space shall be designed such that a vehicle would be backing or driving out onto a through road. Instead, there shall be a defined entrance and exit to and from each parking area.
- (4) Access to and egress from the proposed development shall be to a public road, and a traffic engineering study shall be an integral part of the site plan application. Such entrances and exits shall be at least 100 feet from any intersection and shall have at least 300 feet of sight distance in both directions. No multifamily development shall be served by more than one entrance and one exit from any public highway, unless topography or other physical circumstances would preclude the use of a single entrance in a safe manner.
- (5) Parking spaces of two per unit shall be provided, plus, for every two units intended for rental or other transient occupancy, one additional space to accommodate parking needs during sales and other peak visitation periods.
- (6) No more than 60 parking spaces shall be provided in one lot, nor more than 15 in a continuous row, without being interrupted by landscaping. All off-street parking shall be adequately lighted and so arranged as to direct lighting away from residences.

- (7) No structure shall be erected within a distance equal to its own height of any other structure.
- (8) Where a property line is not wooded, a planting strip of 50 feet in width shall be required to buffer adjoining property owners and ensure privacy. Similar buffering of areas adjoining county and state highways shall be required. A landscaping plan shall also be prepared and submitted to the Planning Board for approval.
- (9) Multifamily developments shall be subject to the stormwater management requirements of this chapter. Facilities shall be designed to accommodate storms of a twenty-five-year average frequency unless a more stringent standard shall be recommended by the Village Engineer. The general performance standard shall be that the amount of uncontrolled stormwater leaving the site along any property line after development shall not exceed that estimated for the site prior to development. In instances where stormwater facilities are impractical for engineering reasons, the Board may modify this standard as it applies to a particular project but shall provide for the maximum practical reduction in flow that can be achieved under the circumstances.
- (10) All electrical and other utilities shall be placed underground and buried to a depth determined by the Village Engineer as sufficient for safety purposes.
- (11) In addition to the standards for landscaping set forth herein, the ground and vicinity of buildings shall be provided with decorative landscape materials subject to approval by the Planning Board.
- (12) Exterior lighting along walks and near buildings shall be provided utilizing architectural grade equipment and shall not create glare on adjoining units or adjoining properties.

- (13) Walks shall be provided throughout the development area to ensure that roads shall not be required for pedestrian circulation.
 - (14) The Fire Inspector of the fire district in which the development is proposed shall review any development for adequate access for emergency vehicles.
 - (15) The side yard applicable to a multifamily structure shall be increased by 10 feet for each dwelling unit over two within the structure.
- J. Maintenance of a multifamily project shall be vested in 1) an association or other legal entity organized prior to the offering of the first unit for occupancy; or 2) a manager, who may be the developer, or a person designated by the developer before the developer offers a unit for occupancy; or 3) the owners or occupants of units themselves if the total number of owners or occupants within the development is not more than five. If the developer shall opt to manage the project or designate a manager, the preliminary application shall include financial statements, a description of previous management experience and other data sufficient for the Planning Board to ascertain the financial responsibility of the manager.
- K. The association or manager, as the case may be, shall be responsible for maintenance, repair and replacement of the common areas of the development including buildings and, if applicable, the furniture, fixtures and equipment within the units. The project instruments shall specify the expenses that the maintenance organization may incur and collect from purchasers as a maintenance fee and secure maintenance of the project and enforcement of applicable covenants and restrictions in perpetuity. The Planning Board may require that a certified public accountant review such financial data to determine proposed fees are, in fact, adequate to secure maintenance on a continuing basis.

- L. The developer shall, in filing a preliminary development plan, provide a narrative description of how responsibility for maintenance and care of the units and common areas will be assured and a pro forma operating budget for the maintenance organization, including a breakdown of the common expense to be borne by the maintenance organization and a separation of long-term maintenance costs from ongoing routine maintenance costs. There shall also be provided a narrative description of how the developer proposes to assure maintenance of the units and common facilities during any sales program. The Planning Board may require additional temporary facilities to accommodate service demands. Copies of all applicable instruments shall be provided for purposes of determining that long-term arrangements for maintenance of common facilities have, in fact, been made by the developer.
- M. Any developer who proposes to construct multifamily dwellings and convey the common elements of said multifamily dwelling project, including recreation areas, to an association of purchasers of units therein shall submit, in the discretion of the Planning Board, a letter of credit or other performance guarantee acceptable to the Planning Board, Village Board and Village Attorney ensuring long-term maintenance and repair of said common elements. Such letter of credit or other performance guarantee shall:
- (1) Be for a period of not less than 15 years from the date of the final approval of said multifamily dwelling-transient use by the Village.
 - (2) Be in an amount equal to the amount collected or to be collected for long-term maintenance (as indicated in the budget referenced above) by the developer or other responsible parties from each purchaser during the first year after sales to such purchasers begin, multiplied by the total number of expected purchasers.

- N. If the development shall be subject to the New York State statutes governing the sale of real property used for multifamily occupancy, the developer shall certify as to his or her compliance with said statutes. To the extent the provisions of such statutes conflict with this subsection, such certification shall suffice as to conformance with these requirements.
- O. Conversions of existing structures to multifamily dwelling use, regardless of whether such conversions involve structural alterations, shall be considered subdivisions and, moreover, be subject to the provisions of this chapter. Motels and hotels, however, shall not be converted to multifamily residential use. If the proposed project does involve structural alterations, the preliminary development plan shall include a certification of a registered architect or engineer to the effect that the existing building is structurally sound and that the proposed conversion will not impair structural soundness. However, the conversion of an existing one-family detached dwelling or single-family semidetached dwelling into not more than three residential units shall be exempt from these requirements, unless such units are intended to be a condominium. This shall not, however, exempt an owner from any requirements of the State Building Code or the Village Zoning Law as they may pertain to such activities.

§ 87-30. Conversions of residential structures.

Any conversion of a residential structure to a more intensive residential use or a nonresidential use shall require a special use permit. Likewise, the conversion of any nonresidential use to a dwelling or dwellings shall require a special use permit. The following additional review criteria shall apply in both instances:

- A. There shall be adequate parking to accommodate the new use in combination with other activities on the property or in the vicinity.

- B. There shall be demonstrated sewage treatment and water supply capacity to serve any increased needs connected with the new use.
- C. The conversion shall not result in increased residential density exceeding that permitted within the district. If, for example, the minimum lot size is two acres, then no more than one dwelling unit shall be permitted per two acres of lot area.
- D. Conversion of a residential structure to a nonresidential use shall not be permitted where the new use is not otherwise allowed. Adaptations of any such structure should preserve its architectural integrity and residential character, except for minimal signage, required parking and other features mandated by the nature of the business.
- E. A building permit shall be required for all conversions of residential structures.

§ 87-31. (Reserved)

§ 87-32. Wireless communications facilities.

- A. Purpose. The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Village of Liberty; to provide standards for the safe provision of wireless telecommunications consistent with applicable federal and state regulations, to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunications towers by requiring careful siting, consideration of visual impact assessment and appropriate landscaping so as to minimize the impact upon the environment.

B. Application.

- (1) No telecommunications facility, except those approved prior to the effective date of this section, shall be used unless in conformity with these regulations. No telecommunications facility shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a telecommunications facility unless in conformity with these regulations.
- (2) Applicants proposing new telecommunications facilities, physical expansions of existing telecommunications facilities or the location of telecommunications facilities within or on other existing structures shall require a special use permit and site plan review hereunder.
- (3) Applicants proposing to co-locate new telecommunications arrays on a previously approved telecommunications facility without extending the height thereof or otherwise physically expanding the facilities except for additional equipment buildings within previously designated fenced-in areas shall not require a special use permit or site plan review but shall require accessory use permits.

C. Special definitions. As used in this section, the following terms shall have the meanings indicated:

ANTENNA — A device of 35 or more feet in height used to collect or transmit telecommunications or radio signals. Examples are panels, microwave dishes, and single poles known as "whips." This definition is not meant to include home television or amateur radio apparatus.

ARRAY — Telecommunications signal receiving or transmitting device attached to telecommunications tower and not extending the height thereof.

TELECOMMUNICATIONS EQUIPMENT BUILDING —

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

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 preempted the Village of Liberty from regulating.

TOWER — A structure of 35 feet or more in height that is intended to support equipment used to transmit and/or receive telecommunications signals. Examples of such structures include monopoles and lattice construction steel structures.

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

- (1) Telecommunications facilities shall be permitted as a sole use on any lot in a C District or M District subject to special use procedures and provided there is a two-hundred-foot yard on all sides. Provided that no residences directly adjoin the site and the applicant can demonstrate that lesser standards will, because of buffers and screening, not have a major aesthetic impact on the area or unduly interfere with the use and enjoyment of such adjacent properties, yards may be reduced to minimums otherwise applicable in the zoning district.
- (2) Maximum height requirements for the zoning district may be exceeded, provided that 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.

- (3) A telecommunications facility shall be permitted on a C District or M District 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) Where an antenna for a telecommunications facility is to be attached to an existing structure or building, it shall be a maximum height of 75 feet above the existing building or structure.
 - (c) 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.
 - (d) The antenna or array shall be camouflaged or otherwise designed to be aesthetically compatible with the existing architectural and natural environment.
- E. Plan review criteria. Communications facilities shall be subject to all the ordinary review criteria applicable to special uses plus the following:
 - (1) The Planning Board shall be satisfied that the tower for the communications facility is the minimum height necessary for the service area and that the site chosen is the one that 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 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.

- (3) Visual assessment data shall be used to determine 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. Camouflaging or relocation of the structure may be required. The Planning Board shall also consider alternative sites in assessing visual impacts and the imposing of conditions as may be required to minimize such impacts, including requirements that any tower be of a shape, contour and finish (either painted or unpainted) that minimizes its visual impact. The Planning Board may also require a tower to be in the shape of a tree, flagpole, church steeple or other similar tall structures. Accessory structures shall similarly maximize the use of building materials, colors and textures designed to blend with natural surroundings.
- (4) Freestanding pole-type communications structures shall be given preference over towers supported by guy wires.
- (5) 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.
- (6) 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 year from the abandonment of use. Failure to do so shall authorize the Village of Liberty to remove the facility

and charge back the cost of removal to the foregoing parties. The Village of Liberty may also file a municipal lien against the land to recover the costs of removal and attorneys' fees.

- (7) Shared use of existing structures (for example, municipal water towers, multistory buildings, church steeples and farm silos) and existing or approved towers shall be given preference over construction of new towers. Where shared use of all existing tall structures and existing or approved towers is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Any proposals for a new telecommunications tower on an existing site shall also be subject to special use permit procedures.
- (8) 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 Village for the purpose of assessing the feasibility of co-located facilities, and co-location shall be mandatory wherever physically feasible. 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, including provision of the necessary tower height to accommodate such other users without adding additional height in the future. Where co-location is proposed, the different companies using the facility shall also work from common maintenance and service buildings, if the same are located on the site.

§ 87-33. (Reserved)**§ 87-34. Animal husbandry, animal hospitals and commercial agriculture.**

The following additional standards must be met in conducting animal husbandry and commercial agricultural operations:

- A. Animal agriculture shall not be permitted in the Village of Liberty.
- B. Animal hospitals or veterinary clinics and animal kennels shall, where permitted, be subject to the following standards:
 - (1) The minimum lot size for an animal kennel (a structure used for harboring three or more dogs or cats with or without attendant commercial services such as grooming, breeding or veterinary care) shall be three acres.
 - (2) No animal kennel, runway or exercise pen shall be located within 500 feet of any lot or street line.
 - (3) No building or part thereof shall be erected nearer than 50 feet of any lot line.
 - (4) For animal hospitals and veterinary clinics, all facilities other than exercise pens and runways shall be maintained in enclosed structures which shall be of soundproof construction and so maintained as to produce no dust or odors at the property line.
 - (5) The keeping or boarding of any dogs by a veterinarian shall conform to the requirements for a commercial kennel.
 - (6) All facilities shall be permanently screened from all surrounding properties.

- (7) In issuing the special use permit, the Planning Board shall stipulate the maximum number and type of animals to be boarded, harbored or trained.
- C. The keeping of other animals shall be limited to household pets such as dogs, cats, caged birds, rabbits and similar animals kept indoors or in a cage. A minimum of 10,000 square feet of lot area shall be required for any caged animal kept outdoors for extended periods of time. Nothing herein shall apply to the keeping of household pets indoors.

§ 87-35. Seasonal recreation camps/schools.

- A. Camps shall provide a minimum of 10,000 square feet per cabin site and the same for each principal building.
- B. No tent, activity area or recreational facility shall be located nearer than 100 feet from any public road and 100 feet from any adjoining property line.
- C. Buildings and sleeping quarters (except tents) shall be set back 30 feet distance from each other; and tents shall be set a minimum of 10 feet apart.
- D. Cabins or cottages designed for one-family occupancy only shall be permitted.
- E. Accessory recreational facilities shall be set back 200 feet from all lot lines and shall be effectively screened along lot lines as required by the Planning Board.
- F. If floodlighting is used, exterior lighting shall be restricted to that essential for the safety and convenience of the users of the premises, and the source of such illumination shall be shielded from the view of all surrounding streets and lots.
- G. The use of outdoor public address systems is strictly prohibited. This provision shall apply to existing as well as new summer recreation camps/schools.

- H. All structures and uses shall be effectively screened along lot lines, as required by the Planning Board.
- I. All provisions of the Sanitary Code or such other regulations of the County Health Department pertaining to camps and their sanitary facilities must be met.
- J. The total interior floor area of each dormitory unit shall be not less than 250 square feet, and no more than two persons shall be housed per dormitory unit.
- K. Seasonal recreation camps/school uses, bungalow colonies and similar uses designed for seasonal use shall be limited to occupancy during the months of May through October. Any conversion to permanent use or use during other months of the year shall be limited to activities otherwise permitted within the applicable zoning district and require special use approval and site plan review.

§ 87-36. Hotels, motels and resorts.

Hotel, motel and resort establishments, where permitted, shall require special use review by the Planning Board and be subject to the following standards:

- A. A site to be used for a motel, hotel or resort establishment shall include an office and lobby and may include accessory uses as follows: restaurants, coffee shop or cafeteria providing food and drink, amusement and sport facilities such as a swimming pool, children's playground, tennis or other game sports; and game or recreational rooms.
- B. Lot area shall be a minimum of two acres plus one acre for each 15 rooms beyond the first 20, with not less than 200 feet frontage on a Village, county, state or federal highway.
- C. Point of ingress and egress shall be limited to a total of two on any street. All off-street parking areas shall be at least 25 feet from all property lines, and parking areas serving a restaurant, cafeteria or coffee shop shall be at least 20 feet from all motel dormitory units.

- D. Individual hotel, motel and resort rooms shall not contain kitchen facilities of any nature and shall not be used as apartments for nontransient tenants or other single-room occupancy residential uses.
- E. No hotel, motel or resort use shall be permitted which is intended to accommodate activities of a health care, rehabilitative or medical nature. Such facilities shall be considered separate uses and limited to those zoning districts where specifically permitted by listing on the Schedule of District Regulations.¹³
- F. The exterior treatment, including colors, textures and materials, of all structures within a hotel or motel development shall be muted and blend into the surrounding landscape or adjacent land uses. Lighting throughout the area shall not exceed 1.5 footcandles (average reflective method) at ground level except in the case of recreational facilities, which may be illuminated in excess of that standard, provided that opaque screening is utilized to entirely block the reflected glare of the area from adjacent uses.
- G. Public announcement systems connected with these uses shall be operated strictly in accord with the noise standards found in § 87-19 hereof.

§ 87-37. Health and senior-care facilities.

- A. Hospitals, nursing homes and other health and senior-care facilities are permitted as specified on the Schedule of District Regulations,¹⁴ provided that there are no facilities for treatment or incarceration of the criminally insane. "Senior life care facilities" shall be defined as any premises containing sleeping rooms, with or without kitchens, or

13. Editor's Note: The schedule of District Regulations is included at the end of this chapter.

14. Editor's Note: The schedule of District Regulations is included at the end of this chapter.

living units used by persons who are lodged and furnished with optional meals, health care or other supportive services connected with the activities of daily living, including nursing homes, assisted- and independent-living projects and other similar uses primarily intended for the elderly or infirm, and not including group homes, hospitals, clinics or alcohol and drug rehabilitation facilities. Senior-care facilities may receive, at the discretion of the Planning Board, up to a one-hundred-percent density bonus above other multifamily dwellings but be subject to all other applicable multifamily dwelling standards.

- B. Hospitals providing community general hospital care, including outpatient mental health services, are permitted on lots with the minimum area and lot width specified for the applicable zoning district, provided that all other requirements are in full compliance with these regulations.
- C. In addition to approval of a special permit for a hospital, nursing home or convalescent home, the Planning Board may also allow in separate facilities upon the same or an abutting lot offices and facilities for administration, doctors' offices, dispensaries or other like uses that are clearly accessory to the principal use, provided that such facilities shall observe the setbacks for the principal use from any property line other than property lines which adjoin another such hospital. Such facilities need not be in the same ownership.

§ 87-38. Nursery schools and child day-care centers.

- A. A buffer landscape strip shall be required to protect play yards from dust, dirt and noise as well as to screen and protect adjacent properties from site-generated noise. The landscaped strip shall be densely planted in shrubs and trees to create an opaque screen. No plantings shall cause an interference with required lines of sight for entry and exit drives.

- B. Outdoor play areas shall be provided with a minimum space of 40 square feet per child. Play areas shall include turf grass areas and space for play equipment and circulation. Play areas shall not exceed 10% in slope.
- C. Fencing not less than four feet high and not greater than six feet high shall be required in addition to a landscape strip, unless it can be demonstrated to the satisfaction of the Planning Board not to be necessary for the protection of health and safety. Only a day-care center that is on a local road may apply for the waiver.
- D. Such use shall require certification from appropriate state agencies.

§ 87-39. Automotive service stations and auto body shops.

- A. Strict compliance with New York State standards shall be required in the design and construction of devices for storing and handling gasoline and other products to keep the hazards of fire, explosion and pollution involving the same to a minimum.
- B. The minimum required lot area for such use shall be 15,000 square feet.
- C. There shall be safe and adequate sight distance in each direction along the highway on which the property has access (no less than 150 feet), and the use of the property shall not otherwise create a traffic hazard.
- D. Pumps and other devices, including all signs, shall be located at least 20 feet from any street line.
- E. All automobile parts, dismantled vehicles and similar articles shall be stored within a building.
- F. The illuminated parts of and lettering which are customarily part of or affixed to gasoline pumps shall not be deemed signs.

- G. No more than two wrecked, partially dismantled or unlicensed vehicles shall be kept on the premises, and all such vehicles shall be kept within a building or concealed behind a board fence at least six feet high, which shall be erected and maintained in a manner approved by the Code Enforcement Officer.
- H. No dead storage or parking of vehicles shall be permitted, except vehicles awaiting immediate service or repair or those vehicles impounded at the direction of the police.
- I. A minimum ten-foot-wide landscaped buffer shall be provided on side and rear yards with appropriate landscaping in the front yard as shall be determined by the Planning Board. The landscaping provisions hereof shall apply.
- J. For auto body shops, said shop shall be licensed by the applicable regulating agency. A copy of said license shall be filed as part of the special permit application.

§ 87-40. Bed-and-breakfasts.

- A. A bed-and-breakfast facility shall require a minimum lot area of 1/2 acre for the first four guest rooms.
- B. Two additional guest rooms may be provided for every additional 1/4 acre up to a maximum of 12 guest rooms.
- C. The owner shall demonstrate there are adequate sewer and water supply facilities to serve the guests to be accommodated.
- D. No bed-and-breakfast facility shall lodge persons for more than two months at a time.
- E. No bed-and-breakfast facility outside a district where restaurants are otherwise permitted shall regularly offer meals to the general public for remuneration except in connection with room rentals.

§ 87-41. Outdoor display/storage of merchandise.

- A. Yard sales. Individual private family yard sales are a permitted use in all zoning districts. They shall be subject to the following specific regulations and requirements:
- (1) Each individual property location may have a maximum of five yard sales during any one calendar year. Each sale shall last a maximum of three consecutive days. All displayed materials shall be removed at the end of the sale.
 - (2) All items shall be placed and offered for sale within the confines of the property described in the permit.
 - (3) Yard sales are meant to allow individuals to offer for sale accumulated normal household items or arts and crafts, and the buying and selling of commercial or surplus material shall be considered a commercial operation and shall be prohibited unless otherwise specifically permitted herein.
- B. Flea markets and tent sales. Business owners, churches, schools and other commercial or nonprofit organizations within all districts may conduct flea markets and tent sales, provided that no more than three such sales shall be conducted per calendar year and each sale is limited to five days in length. A flea market is hereby defined for these purposes as an occasional or periodic market held in an open area or structure where individual sellers or groups of sellers offer goods for sale to the public on a commercial basis. The enterprise shall not be conducted within required yards, on public rights-of-way or without otherwise complying with parking, lighting, noise and signage requirements of this chapter.
- C. Other temporary or permanent outdoor commercial display and storage. Unless otherwise permitted by this chapter, there shall be no temporary or permanent outdoor commercial display and storage of merchandise for sale, including multiple used motor vehicles, except as a special

use. The Planning Board shall consider the following in reviewing such applications:

- (1) The location and size of the proposed use.
- (2) The nature and intensity of the operations involved.
- (3) The size of the site relative to the use and its location with respect to highways or streets giving access to it.
- (4) Whether such use will discourage appropriate development and use of adjacent land or buildings or impair their value.
- (5) Whether there are any characteristics of such use that will be objectionable to occupants of nearby properties.
- (6) The electric lighting and advertising that will be involved in such use.
- (7) Any other pertinent information that may be necessary to determine if such proposed special use meets the requirements of this chapter and the public convenience, welfare and safety.
- (8) Automobile- or equipment-related uses involving outdoor display or storage of automobiles or equipment on a commercial basis shall be limited to districts where such uses are otherwise permitted.

§ 87-42. Institutions.

Institutional uses are permitted, on both general and specific bases, as special uses within specified zoning districts (see Schedule of District Regulations).¹⁵ The Planning Board recognizes the broad range of community benefits and

15. Editor's Note: The schedule of District Regulations is included at the end of this chapter.

enrichment contributed by uses of this class. However, due to the wide range of possible uses and their potential for disruption of community services and incompatible conditions within established neighborhoods, the Planning Board reserves the authority to attach conditions to special use permits for construction or conversion of existing uses to institutional uses.

- A. The Planning Board shall require that the applicant submit a detailed description of the operation of any proposed such facility, setting forth fully the extent of public services required in support of such use, including but not limited to maintenance of access from the nearest state highway or county road; educational services, including any capital construction; recreation requirements; fire protection (including evidence of insurability); police services (grounds security, etc.) and municipal administration. If it shall appear that the proposed use will create fiscal demands upon the Village in excess of the Village's financial capacity to absorb such costs or in sharp contrast to the benefits to Village residents, the Planning Board may require alternative arrangements for provisions of such services at the applicant's expense or the payment of reasonable fees in lieu thereof.
- B. In the case of institutions that provide accommodations for participants thereof for periods in excess of 24 hours, the Planning Board shall require that records of such participants be maintained in the same manner as set forth in the New York regulations for innkeepers, and such uses shall also meet other standards found herein.
- C. In granting such special use permit, in addition to the conditions authorized by this section, the Planning Board shall limit the intensity and use of structures or buildings to the extent that such structures or buildings are used for conventional uses permitted in the district where located. Such limitation shall include in detail the scope of operations submitted by the applicant as may be modified by the Planning Board in the interest of the public health

and safety. All accessory uses to institutional uses shall comply with the provisions of this chapter for area, setbacks, access and supplementary regulations.

§ 87-43. Adult uses.

- A. Findings. There is presently in Sullivan County a substantial growth in the number of adult entertainment uses and an increasing trend toward the concentration of adult entertainment establishments. Based upon recent studies evaluating the nature and extent of adverse secondary effects caused by adult uses in residential and commercial areas, including a 1996 study by the City of Newburgh a 1994 study by the City of New York, and a 1980 study by the City of Islip, the Village Board hereby finds that adult uses have negative secondary impacts such as a deterioration of community character and quality of life, depreciation of property values, increase in crime rates, and the blighting or downgrading of surrounding neighborhoods and commercial uses.
- B. Purpose. In the development and execution of this section, it is recognized that there are some adult uses which, because of their very nature, are recognized as having serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of surrounding neighborhoods or land uses, increase crime or police calls, contribute to the spread of prostitution, increase the quantity of transients in residential and commercial areas, cause a deterioration in the quality of life in residential neighborhoods, increase the accessibility of adult-oriented material and entertainment to minors, and encourage residents and businesses to locate elsewhere.

- C. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

SPECIFIED ANATOMICAL AREAS —

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernible turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES —

- (1) Human genitals in a state of sexual stimulation or arousal; or
- (2) Acts of human masturbation, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

- D. Location standards. Adult uses shall be permitted in the M District subject to special use standards and the following additional site plan review criteria:

- (1) No adult use shall be located within a five-hundred-foot radius of any residence or other Village residential or commercial zoning district.
- (2) No adult use shall be located within a one-thousand-foot radius of the property of any church, synagogue, mosque or other place of religious worship.
- (3) No adult use shall be located within a one-thousand-foot radius of any school, park, civic or youth-oriented center, playground or playing field.

- (4) No adult use shall be located within a five-hundred-foot radius of the property of another adult use.
 - (5) The proposed adult use shall not be contrary to the public interest or injurious to nearby properties.
 - (6) The proposed adult use shall not be contrary or injurious to any program of neighborhood conservation or improvement, either residential or nonresidential.
- E. Exterior display prohibited. No adult use shall be conducted in any manner that allows the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way. This provision shall apply to any display, decoration, sign, show window or other opening.
- F. Touching and close-in entertaining prohibited. It shall constitute a violation of this section for any entertainer in an adult-use facility, as defined in Subsection C above, to perform closer than six feet from the nearest patron.

§ 87-44. Signs.

Signs shall be regulated by Chapter 70, Signs, of the Village of Liberty Code.

§ 87-45. (Reserved)

§ 87-46. Junkyards.

Junkyards, as defined herein, are specifically prohibited in all zoning districts.

§ 87-47. Affordable housing developments.

- A. To facilitate the provision of affordable housing in the Village of Liberty, the Village Board may, at its sole discretion, designate property in the R-1 Zoning District which meets the general requirements and design criteria set forth herein for affordable housing development use.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

AFFORDABLE HOUSING — Residential units for a sales price or rental fee within the means of a household income which is 60% or less of the Sullivan County median household income as derived annually from data prepared by the United States Department of Housing and Urban Development.

AFFORDABLE HOUSING DEVELOPMENT — A residential development that consists of affordable housing, affordable senior housing or a combination of affordable housing and affordable senior housing.

AFFORDABLE SENIOR HOUSING — Residential units sold or rented to individuals aged 55 or older for a sales price or rental fee within the means of a household income which is 50% or less of the Sullivan County median household income, as derived annually from data prepared by the United States Department of Housing and Urban Development.

HOUSEHOLD INCOME — The gross annual income of all people who occupy a dwelling unit as their usual place of residence, including unrelated individuals. Household income includes but is not limited to taxable income, nontaxable income, investment income, accident and health plan benefits, insurance policy proceeds, distributions from trust funds, social security payments, unemployment compensation, child support and alimony payments, excluding the earnings of working minors

and/or full-time students, alimony paid and taxable tuition benefits.

OPEN SPACE — Land maintained in its natural state and restricted by covenant or easement from development for other than passive recreational purposes such as picnic areas or trail development.

PLAYGROUND AREA — An area of land used for outdoor play or recreation by children under 12 years of age and often containing recreational equipment such as slides and swings.

RECREATION AREA — Land used for a combination of active and passive leisure time activities such as sports, hiking, picnics and similar uses, not including auto racing, movie theaters or other spectator sports or entertainment activities conducted on a commercial basis.

- C. Procedure. The Village Board shall be authorized, in its sole discretion, to designate a property for affordable housing development use after receiving a report from the Village of Liberty Planning Board recommending the same. This report shall be based upon review, by the Planning Board, of a preliminary site plan application. The preliminary site plan application shall be completed to such detail as provided in § 87-57 herein. The Village Board shall, in making its determination, assess whether the proposed affordable housing development would be consistent with the sound development, safety, health and welfare of the property on which it is proposed and the surrounding neighborhood. Any designation of a property for affordable housing development use by the Village Board shall be conditioned upon Planning Board approval of a detailed site plan complying with the requirements of § 87-57 herein for special use site plans. The Planning Board shall only be authorized to review and act upon such site plan following Village Board approval. Village Board designation of a property for affordable housing development use shall only serve to authorize a full application and shall not be construed as an approval to

proceed with development or serve to vest any rights in such development with the applicant. Village Board action shall be a necessary prerequisite of Planning Board approval but not sufficient in its own right to authorize any disturbance or use of land for purposes of affordable housing development. Such authority shall remain with the Planning Board. **[Amended 12-17-2008 by L.L. No. 8-2008]**

- D. General requirements. The following provisions shall apply to affordable housing developments:
- (1) Location. Affordable housing development may be permitted, at the sole discretion of the Village Board, in the R-1 Zoning District.
 - (2) Minimum site area. An affordable housing development site must contain at least 10 contiguous acres of land, net of wetlands, quarries, slopes over 25% in grade, water bodies, or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas.
 - (3) Affordable senior housing. An affordable housing development must allocate at least 30% of its units for affordable senior housing.
 - (4) Density. Affordable housing development dwelling density shall be limited to twice the number of dwelling units per acre than would be permitted within the district if the parcel on which the units are to be constructed were to be developed for one-family residential use. Maximum permitted density shall be calculated by taking the total acreage of the development site (net of wetlands, quarries, slopes over 25% in grade, water bodies, or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas), dividing it by the minimum lot area for the underlying zoning district, and multiplying by two.

- (5) Open space, recreation area and playground area requirements. All areas of an affordable housing development site not conveyed to individual owners, and not occupied by buildings and required or proposed improvements, shall remain as permanent open space or be dedicated as recreation area or playground area (see definitions)¹⁶ to be used for the sole benefit and enjoyment of the residents of the affordable housing development being proposed. Such area shall be subject to the following regulations:
- (a) No less than 25% of the affordable housing development site, net of wetlands, quarries, slopes over 25% in grade, water bodies, or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas, must be dedicated to open space, recreation area or playground area, if playground area is required.
 - (b) No less than 50% of the area (no less than 12.5% of the total development site net of wetlands, quarries, slopes over 25% in grade, water bodies, or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas) shall be dedicated to recreation area or playground area, if playground area is required, for the sole benefit and enjoyment of the residents of the proposed affordable housing development.
 - (c) Recreation areas shall be usable for active and passive recreational activities and shall not include wetlands, quarries, slopes over 25% in grade, water bodies, or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas.

16. Editor's Note: See Subsection B.

- (d) Affordable housing developments of 50 units or more shall provide 1/2 acre of playground area per every 50 units not restricted to senior affordable housing use, which may be located within the required recreation area.
 - (e) Recreation areas and playground areas (as distinct from permanent open space) shall be freely and safely accessible to residents of the development.
 - (f) Fees in lieu of dedication may not be substituted for such open space, recreation area or playground area.
- (6) Services and utilities. All affordable housing developments shall be served with central sewerage facilities and water supplies. All electrical and other utilities shall be placed underground and buried to a depth determined by the Village Engineer as sufficient for safety purposes.
- E. Design criteria. The following design criteria shall apply to affordable housing developments:
- (1) There shall be no more than 15 dwellings per building in an affordable housing development, except that a building containing senior affordable housing dwellings may contain no more than 25 dwellings.
 - (2) No buildings shall be located within 100 feet of any pond, reservoir, lake or watercourse that is part of a water supply system. No building shall be erected within a distance equal to its height of any other building.
 - (3) Access and egress from the proposed affordable housing development shall be directly to a public road. Such entrances and exits shall be at least 100 feet from any intersection and shall have at least

300 feet of sight distance in both directions. No affordable housing development shall be served by more than one entrance and exit from any public highway, unless topography or other physical circumstances would preclude the use of a single entrance in a safe manner.

- (4) Parking spaces of one per dwelling unit of senior affordable housing and 1.25 per unit of affordable housing shall be provided within the affordable housing development. Parking may be provided along the interior access roads for the affordable housing development. No more than 15 parking spaces may be provided in a continuous row without being interrupted by landscaping.
- (5) Walks shall be provided throughout the affordable housing development to ensure that roads shall not be required for pedestrian circulation.
- (6) The affordable housing development shall comply with the development standards for the underlying R-1 Zoning District, except for the floor area per dwelling unit requirement.
- (7) The affordable housing development shall provide landscaping in compliance with the requirements of § 87-20.
- (8) The affordable housing development shall provide lighting in compliance with the requirements of § 87-21.

§ 87-48. through § 87-50. (Reserved)

ARTICLE VI

Nonconforming Uses and Structures**§ 87-51. Right to continue nonconforming uses.**

- A. A use, building, lot or structure lawfully in existence as of the effective date this chapter and nonconforming with it or any subsequent amendment may be continued, except as otherwise provided herein with respect to specific uses. Upon request, the Code Enforcement Officer may issue certificates of nonconformance to owners or operators of bona fide nonconforming uses, buildings or structures who desire confirmation of their rights hereunder.
- B. It is the purpose of this article to limit the injurious impact of nonconforming uses, buildings, lots and structures on other adjacent properties within a particular district and the community as a whole, while recognizing that alterations, continuations and extensions of nonconforming uses, buildings or structures may not be contrary to the public interest or the general purpose of this chapter, when failure to allow such alteration, continuation or extension would itself lead to neighborhood or district deterioration.
- C. It is further the purpose of this article to set forth those standards which are to be applied by the Village in determining the reasonableness of proposals to alter, continue or extend a nonconforming use and to establish when Village review and approval shall be required for such actions.
- D. The protections extended by this article to existing nonconforming uses, buildings, lots or structures, commonly known as "grandfathering," shall not extend to any illegal or unapproved nonconforming activity occurring subsequent to the effective date of this chapter, as amended.

§ 87-52. Normal maintenance and repairs.

- A. Normal maintenance and repair activities, such as painting, replacing a roof or fixing gutters, shall be permitted. Also permitted are alterations, such as adding or removing windows, and interior renovations that do not structurally alter buildings, add living areas or result in extended or increased nonconforming use of a building, lot or structure.
- B. Increases in outside storage or display of retail or wholesale inventory, which in the ordinary course of business would be sold within one year, shall be permitted, provided that they do not eliminate parking spaces, unoccupied open spaces or accesses required by this chapter. Notwithstanding this provision, however, the Planning Board, in reviewing any special use application for expansion or upon determining, with respect to any present use, that a condition exists which requires remedies, may establish limits on such storage or display or require removal of inventory (altogether or to another location on the site) to preserve adequate sight distances and residential buffers or otherwise protect public health, safety and welfare.

§ 87-53. Restoration, reconstruction or reestablishment.

- A. If less than 75% of the floor area of any nonconforming use, building or structure is damaged, it may be restored or reconstructed within 18 months of the date of the damage, with an extension in time allowable where proven necessary to the Planning Board. If more than 75% is affected, then the replacement or reconstruction shall be permitted by special use permit.
- B. A nonconforming use, building or structure may be reestablished within a period of 12 months after it has been discontinued or vacated, with an extension of 12 months allowable where proven necessary to the Planning Board.

- C. A nonconforming use, building or structure shall be considered abandoned under the following circumstances:
- (1) The intent of the owner to discontinue the use is made obvious by the posting of signs, boarding up of windows, failure to pay taxes or assessments or other measures which demonstrate the enterprise is going out of business or the use is otherwise ending; or
 - (2) The building has not been occupied for 12 months or more; or
 - (3) The nonconforming use has been replaced by a conforming use or changed to another use under permit from the Village; or
 - (4) The equipment and furnishings used in furtherance of the nonconforming use have been removed from the premises.
- D. Should a nonconforming use be abandoned, it may not be reestablished once a period of 12 additional months has expired, unless an extension shall have been granted by the Planning Board as provided in Subsection B above.

§ 87-54. Changes and additions.

Excepting for specific activities provided for above and accessory uses, all changes and additions to nonconforming uses shall be considered special uses, and permits for alterations, changes in use or additions shall be granted only after a determination by the Planning Board that the following conditions have been, or will be, satisfied:

- A. There shall be no expansion in the amount of land area outside a nonconforming facility which is used for storage of materials, supplies and/or products, excepting with respect to those types of uses specifically provided herein.

- B. Where the nonconforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a lumberyard), the Planning Board may require dense evergreen screening sufficient to shield all such materials from the view of adjacent landowners and/or the traveling public.
- C. No addition, change or expansion of a nonconforming use shall further violate setback and/or height regulations of the district in which it is located in any material way. Moreover, no change of use shall be to one of less restrictive classification, as determined by the Planning Board. A nonconforming retail enterprise could be converted to a barbershop, for example, but not to an industrial use.
- D. There shall be no increase in the amount of stormwater runoff for the site over what was existing as of the date of the enactment of this chapter. The USDA Soil Conservation Service, a professional engineer or other appropriate professional may be relied upon to recommend appropriate measures to control stormwater runoff. Such measures shall be attached as conditions of approval by the Planning Board.
- E. In no case will a change, addition or extension of a nonconforming use be allowed which would reduce the level of service for the highway to LOS D or below, divert traffic closer to a nearby residence or substantially reduce any of the parking and unloading requirements of this chapter. If the total number of parking spaces for the site is to be increased more than 25% over those available as of the date of this chapter, the Planning Board may require vegetative screening of the parking area from nearby residential areas.
- F. The use may only be expanded or extended onto another property of record if that property is immediately adjacent to the lot on which the original structure or use was located as of the effective date of this chapter or

amendments hereto and the use is not one which has been altogether prohibited as a new use under this chapter.

- G. Should the use proposed for expansion or extension be one which is specifically prohibited as a new use in the Village or is determined by the Planning Board to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this chapter, the requested expansion or extension shall be denied.

§ 87-55. Use of existing nonconforming lots of record.

A structure may be erected on any existing lot of record, provided that no side yard or rear yard is reduced to less than 50% of the requirement for the district in which it is located and front yards are maintained as required for the district.

§ 87-56. (Reserved)

ARTICLE VII

Special Use and Site Plan Review Procedures

The Village of Liberty Planning Board is authorized, in accordance with §§ 7-725-a and 7-725-b of the New York State Village Law, to review and approve, approve with modifications or disapprove special uses and site plans. Site plan review shall be required for all special use permits and such other uses as are designated herein and the Village Board may from time to time designate by local law or that the Code Enforcement Officer refers to the Planning Board. The following procedures shall apply:

§ 87-57. Preliminary site plan.

An applicant for a special use permit or site plan approval 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 preliminary site plan but may use it to schedule a public hearing if sufficient data is available, 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 (SEQRA).

§ 87-58. 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 or site plan review application until formal application has been made on forms provided by the Board and a detailed site plan providing the following information has been submitted:

- A. 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.
- B. 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.

- C. 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.
- D. 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.
- E. 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.
- F. The location and identification of proposed open spaces, parks or other recreation areas.
- G. The location and design of buffer areas and screening devices to be maintained.
- H. The location of trails, walkways and all other areas proposed to be devoted to pedestrian use.
- I. The location of public and private utilities, including maintenance facilities.
- J. The specific locations of all signs existing and proposed, including a visual depiction of the latter.
- K. Preliminary architectural plans for the proposed buildings or structures, indicating typical floor plans, elevations, height and general design or architectural styling.
- L. A completed SEQR environmental assessment.
- M. Any other information required by the Planning Board which is clearly necessary to ascertain compliance with the provisions of this chapter and limited to such information.

§ 87-59. Waivers.

The Village of Liberty Planning Board shall, pursuant to the aforementioned Village 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:

- A. No waiver shall result in allowing a use not permitted within the applicable Zoning District.
- B. No waiver shall be given with respect to standards outside the scope of this article which would otherwise require a variance from the Zoning Board of Appeals.
- C. 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.
- D. An applicant for a special use permit or 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.

- E. Nothing herein shall authorize the Planning Board to waive state environmental quality review requirements.

§ 87-60. Hearing and decision.

The Planning Board shall fix a time, within 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 days prior to it in a newspaper of general circulation in the Village and decide upon the application within 62 days after such hearing. It shall not, however, grant approval 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 Village Clerk and a copy thereof mailed to the applicant within five business days after such decision is rendered.

§ 87-61. Conditions.

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to 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 Village. These conditions may include requirements of the applicant to provide parkland or to provide fees in lieu thereof pursuant to § 7-725-a Subdivision 6, of the New York State Village Law. Conditions shall also include specified times for initiating and completing construction or establishment of the use, failure to meet such deadlines rendering the approval null and void with respect to any further activity unless later extended by the Planning Board.

§ 87-62. Referrals to other agencies or professionals.

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 Village 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 § 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.

§ 87-63. Appeals.

Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the Village may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

§ 87-64. 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, as an authorization to establish the use, for a maximum of one year from the date of approval unless the Planning Board shall have granted an extension in writing. Absent such an extension, the special use shall be deemed to have expired. A special use which has been discontinued for a period of one year or more shall also be deemed to have lapsed.

§ 87-65. 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 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 approval. Should the applicant fail to make such remedies, the special use approval shall be revoked and the use immediately discontinued.

§ 87-66. Special use and site plan review criteria.

The Planning Board, in reviewing the site plan, shall consider its conformity to the Joint Liberty Comprehensive Plan and the various other plans, laws and ordinances of the Village. Conservation features, aesthetics, landscaping and impact on surrounding development as well as on the entire Village shall also be part of the Planning Board review. The Board, in acting upon a site plan connected with a special use, shall also be approving, approving with modifications or disapproving the special use permit application connected therewith. 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 Board shall further consider the following:

- A. Building design and location. Building design and location should be suitable for the use intended and compatible with natural and man-made surroundings. New buildings, for example, should generally be placed along the edges and not in the middle of open fields. They should also be sited so as not to protrude above treetops or the ridgelines of hills seen from public places and busy highways. Building color, materials and design should be adapted to surroundings as opposed to adaptation of the site to the building or the building to an arbitrary national franchise concept.
- B. Large commercial buildings. Commercial facades of more than 100 feet in length should incorporate recesses and projections, such as windows, awnings and arcades, along 20% of the facade length. Variations in rooflines should be

added to reduce the massive scale of these structures and add interest. All facades of such a building that are visible from adjoining streets or properties should exhibit features comparable in character to the front so as to better integrate with the community. Where such facades face adjacent residential uses, earthen berms planted with evergreen trees should be provided. Loading docks and accessory facilities should be incorporated in the building design and screened with materials comparable in quality to the principal structure. Sidewalks should be provided along the full length of any facade with a customer entrance and integrated into a system of internal landscape-defined pedestrian walkways breaking up all parking areas.

- C. Lighting and signage. Improvements made to the property should not detract from the character of the neighborhood by producing excessive lighting or unnecessary sign proliferation. Recessed lighting and landscaped ground signs are preferred. Signs are governed by Chapter 70 of the Village of Liberty Code.
- D. Parking and accessory buildings. Parking areas should be placed in the rear whenever possible and provide for connections with adjoining lots. Accessory buildings should also be located in the rear, with access from rear alleys. If placement in the rear is not possible, parking lots should be located to the side with screening from the street.
- E. Drainage systems. Storm drainage, flooding and erosion and sedimentation controls should be employed to prevent encroachment upon or injury to persons, water damage to property and siltation to streams, wetlands and other water bodies. All applications shall provide for stormwater management and erosion control measures, as may be required by the Planning Board, regardless of the applicability of New York State law in this regard.
- F. Driveway and road construction. Whenever feasible, existing roads onto or across properties should be retained and reused instead of building new, so as to maximize the

use of present features such as stone walls and tree borders and avoid unnecessary destruction of landscape and tree canopy. Developers building new driveways or roads through wooded areas should reduce removal of tree canopy by restricting clearing and pavement width to the minimum required for safely accommodating anticipated traffic flows.

- G. Construction on slopes. The crossing of steep slopes with roads and driveways should be minimized, and building which does take place on slopes should be multistoried with entrances at different levels as opposed to regrading the site flat.
- H. Tree borders. New driveways onto principal thoroughfares should be minimized for both traffic safety and aesthetic purposes, and interior access drives which preserve tree borders along highways should be used as an alternative. Developers who preserve tree borders should be permitted to recover density on the interior of their property through use of clustering.
- I. Development at intersections. Building sites at prominent intersections of new developments should be reserved for equally prominent buildings or features which will appropriately terminate the street vistas. All street corners should be defined with buildings, trees or sidewalks.
- J. Streets and sidewalks. Cul-de-sac and dead-end streets should be discouraged in favor of roads and drives which connect to existing streets on both ends. Streets within residentially developed areas should be accompanied by on-street parking and a sidewalk on at least one side of the street. Sidewalks should also be provided in connection with new commercial development adjacent to residential areas, and pedestrian access should be encouraged.
- K. Setbacks. New buildings on a street should conform to the dominant setback line and be aligned parallel to the street so as to create a defined edge to the public space.

- L. Adjacent properties. The proposed use should not have a detrimental impact on adjacent properties or the health, safety and welfare of the residents of the Village of Liberty.
- M. Conditioned approval. If the proposed use is one judged to present detrimental impacts with respect to noise, lighting, surface runoff, emissions or other similar factors, the Planning Board shall determine whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.
- N. Community impacts. The Planning Board shall, in the case of special use applications only, consider and make a finding as to whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation. The granting of an approval should not cause an undue economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies and 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 Village 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.
- O. Outstanding violations. Neither the Code Enforcement Officer nor the Planning Board shall be under any obligation to process a special use or site plan review application for a property with outstanding violations of this chapter.
- P. Professional fees. Applicants for special use approval or site plan review shall pay all professional costs incurred by the Village of Liberty in the processing and/or review of any such applications. These fees shall be governed by a

schedule of uniform fees, charges and expenses adopted by the Village Board.

§ 87-67. (Reserved)

ARTICLE VIII
Administration and Enforcement

§ 87-68. Code Enforcement Officer.

The Village Board shall provide for the services of a Code Enforcement Officer to simultaneously enforce the provisions of this chapter and the Uniform Fire Prevention and Building Code Enforcement Law. Such Code Enforcement Officer shall examine all applications for permits, issue permits and/or certificates of occupancy for construction and uses which are in accordance with the requirements of this chapter, record and file all applications for permits with accompanying plans and documents and make such reports as may be required. Permits requiring site plan review and special use approval, however, shall only be issued with approval of the Village of Liberty Planning Board. Likewise, permits requiring variances of this chapter shall only be issued with approval of the Village of Liberty Zoning Board of Appeals.

§ 87-69. Permit requirements.

- A. No person shall construct, erect, alter, convert or use any building or structure, or part thereof, nor change the use of any land, subsequent to the adoption of this chapter, until a building permit and/or certificate of occupancy has been issued by the Code Enforcement Officer. Applications for such permits shall be made to the Code Enforcement Officer prior to any construction activity and/or change in the use of land. The Officer shall review such applications and act upon them according to the requirements of this chapter, taking no action, however, until the Planning Board and/or Zoning Board of Appeals has first taken

action, should the approval of either Board be required. A building permit shall authorize the applicant to proceed with construction proposed.

- B. Prior to use of the structure or the change in use of the land, a certificate of occupancy shall be required and shall be issued by the Officer, provided all construction has been in accord with the building permit granted and/or the proposed use is in compliance with this chapter. The Code Enforcement Officer shall be authorized to make such inspections as he deems necessary to ensure that construction does, in fact, comply with this chapter.
- C. The Code Enforcement Officer, with approval of the Village Board, may issue a temporary permit for an otherwise nonconforming structure or use which will promote public health, safety or welfare, provided that such permit shall be of limited duration and the use or structure shall be completely removed within 90 days of expiration of the activity for which it was granted with extensions for good cause as shall be determined by the Village Board.
- D. It shall be the duty of the Code Enforcement Officer to issue a building permit, provided that he is satisfied that the structure, building, sign and the proposed use conform with all requirements of this chapter and that all other reviews and actions, if any, called for in this chapter have been complied with and all necessary approvals secured therefor.
- E. When the Code Enforcement Officer is not satisfied that the applicant's proposed development will meet the requirements of this chapter, he shall refuse to issue a building permit or certificate of occupancy, as the case may be, and the applicant may appeal to the Zoning Board of Appeals.
- F. A building permit or certificate of occupancy may be revoked by the Code Enforcement Officer upon a finding that information provided in the application was inaccurate or invalid or that the construction or use has

proceeded in a manner not consistent with the permit(s) granted.

- G. No change of use shall be made in any building, structure or premises now or hereafter erected or altered that is not consistent with the requirements of this chapter. Any person desiring to change the use of his premises shall apply to the Code Enforcement Officer for a certificate of occupancy. No owner, tenant or other person shall use or occupy any building or structure or premises thereafter erected or altered, the use of which shall be changed after the passage of this chapter, without first procuring a certificate of occupancy; provided, however, that a certificate of occupancy, once granted, shall continue in effect so long as there is no change of use, regardless of change in tenants or occupants.
- H. Though compliance with the development and use standards of this chapter will still be required, the following activities shall not demand permits, except as may be required by the New York State Uniform Fire Prevention and Building Code:
 - (1) Aboveground swimming pools of two feet or less in depth.
 - (2) Structures not regulated by the New York State Uniform Fire Prevention and Building Code.
 - (3) Patios and landscape improvements.
 - (4) All nonstructural accessory uses of a residential or temporary nature (30 days or less).
- I. All applications shall be made on forms developed and periodically updated by the Code Enforcement Officer. Applications shall include plot plans and such other information as is required to determine compliance with the requirements of this chapter.
- J. A building permit, site plan approval or special use permit shall expire after 12 months if the applicant fails to

complete the improvements as approved. An extension may be approved by the Code Enforcement Officer for good cause (such as seasonal weather conditions), provided that any extension of more than six months or subsequent extension of any length shall require approval of the Village Board.

- K. Accessory building permits shall not be issued in advance of permits for principal permitted or special uses or without an existing principal use in place and being operated on an ongoing basis. Accessory uses permitted in the case of passive uses such as agriculture shall be limited to those with the tangible and primary purpose of serving the principal use.
- L. The Code Enforcement Officer may issue a certificate of occupancy and/or compliance to any legally existing use, provided that the owner thereof so certifies and the Officer's investigations do not indicate otherwise.
- M. No permits shall be issued for any new uses where there are unremedied existing violations.

§ 87-70. State Environmental Quality Review Act compliance.

All actions taken with respect to this chapter shall comply with the New York State Environmental Quality Review Act (SEQRA), and applicants shall be responsible for providing such data as may be required to determine the significance of any environmental impacts associated with such actions.

§ 87-71. Violations and penalties.

- A. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer, who shall properly record such complaint and immediately investigate. Nothing herein

shall, however, restrict the right of the Code Enforcement Officer to act on a violation absent a complaint.

- B. Should any building or structure be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land be used in violation of this chapter, the Village Board or the Code Enforcement Officer, in addition to other remedies, may institute an appropriate action of proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
- C. A violation of this chapter shall be subject to a penalty of no less than \$350 per day and up to \$500 per day.
- D. The Code Enforcement Officer or designated representative, as the case may be, is hereby authorized to issue appearance tickets pursuant to the Criminal Procedure Law in the enforcement of this or any related laws of the Village of Liberty.

§ 87-72. Fees.

The Village Board shall, by resolution, establish and periodically update a schedule of uniform fees, charges and expenses associated with the administration and enforcement of this chapter. Such schedule may provide for the assessment to applicants of professional costs incurred in the processing and/or review of the applications made pursuant to this chapter.

§ 87-73. (Reserved)

ARTICLE IX
Zoning Board of Appeals

§ 87-74. Establishment; membership.

- A. There is hereby established a Zoning Board of Appeals having the powers authorized under the New York State Village Law. Said Board shall consist of five members of staggered five-year terms, including a Chairperson, appointed by the Village Board. Appointments shall be in accordance with the New York State Village Law, and an appointment to a vacancy occurring prior to the expiration of a term shall be for the remainder of the unexpired term. In the absence of a Village Board appointment of a Chairperson, the Board of Appeals may designate a member to serve as Acting Chairperson. The Village Board may also provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper. The Village Board shall require Board of Appeals members to complete training and continuing education courses as provided by law.
- B. The Village Board shall also supersede the New York State Village Law pursuant to the Municipal Home Rule Law, and during the annual reorganizational meeting of Village Board, the Board may appoint up to three alternate members of the Zoning Board of Appeals to serve one year or until a successor is appointed. The Chairperson of the Zoning Board of Appeals shall assign such temporary members as necessary when absence of regular members of said Board or a conflict of interest of a regular member of said Board would otherwise prevent five members of such Board from considering any pending matter, but not more than two temporary members shall sit in determination of any pending matter. Such temporary members shall be designated on a rotating basis so that each temporary member shall be afforded an equal opportunity to serve. Once designated to serve on a particular matter before the Board, the temporary member shall have the same power and duties as regular members

of the Board until the matter is concluded. Any determination of said Board consisting of temporary members shall have the same weight and be entitled to the same authority as the act or deed of the regular Zoning Board of Appeals, and all laws, statutes and regulations shall apply and be applied with equal force and effect.

- C. The Village Board deems it essential that Zoning Board of Appeals members are available and present at all scheduled Planning Board meetings. Failure of any Zoning Board of Appeals Board member to be present at any two of three successive regularly scheduled Zoning Board meetings shall be grounds for removal for cause of the active Zoning Board member following a public hearing as required under § 7-712 of the New York State Village Law. As provided therein, the Mayor, following removal of any Zoning Board of Appeals member, shall appoint a new member for the unexpired term of the member so removed. Following appointment, all new members shall attend training as required by law. The Mayor shall have the power to remove, after public hearing, any member of the Board of Appeals for cause or for failing to comply with the minimum training requirements established herein.

§ 87-75. Powers and duties.

- A. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official(s) charged with the enforcement of this chapter and to that end shall have all powers of the administrative official(s) from whose order, requirement, decision, interpretation or determination the appeal is taken.
- B. Use variances.
 - (1) The Board of Appeals, on appeal from the decision or determination of the administrative officials charged

with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.

- (2) No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable regulations and restrictions of this chapter have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that;
 - (a) He or she cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (d) The alleged hardship has not been self-created.
- (3) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. Area variances.

- (1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative officials charged with the enforcement of this chapter, to grant area variances as defined herein.
- (2) Considerations in making determination.

- (a) In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board of Appeals shall also consider:
- [1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - [2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - [3] Whether the requested area variance is substantial;
 - [4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - [5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.
- (b) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- D. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 87-76. Procedures.

- A. All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board may determine. Such Chairperson, or, in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.
- B. Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- C. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Village Clerk within five business days and shall be a public record. Every decision of the Board of Appeals shall be made by resolution and include findings establishing the basis of the decision.
- D. The Board of Appeals shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board. It shall also have authority to refer matters to the Village Planning Board for review and recommendation prior to making a decision.

- E. Except as otherwise provided herein, the jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative officials charged with the enforcement of this chapter. The concurring vote of three members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Village.
- F. Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the administrative officials charged with the enforcement of this chapter by filing with such administrative official and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- G. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal shall have been filed with the administrative office, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- H. The Board of Appeals shall fix a reasonable time, no more than 62 days following application, for the hearing of the

appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Village at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person or by agent or attorney. The hearing shall be conducted in accordance with rules of the Board of Appeals. Such rules shall permit cross-examination by parties, provide for evidentiary procedures and allow for rehearings on the unanimous vote of the members present.

- I. The Board of Appeals shall decide upon the appeal within 62 days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may, however, be extended by mutual consent of the applicant and the Board.
- J. The decision of the Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered and a copy thereof mailed to the applicant.
- K. At least five days before such hearing, the Board of Appeals shall mail notices thereof to the parties; to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal; and to the Sullivan County Planning Department, as required by § 239-m of the General Municipal Law. No Board of Appeals decision shall be made except in conformance with such § 239-m procedures, including requirements for an affirmative vote of no less than four members of the Board if it shall determine to approve an application which the county has recommended it disapprove or modify.

ARTICLE X
Planning Board

§ 87-77. Membership.

The Village of Liberty Planning Board shall consist of five members, and the Village Board shall designate one member of the Board as Chairperson. The Village Board shall also appoint up to three temporary members. Such temporary members shall be appointed for a one-year term of office. The Chairperson of the Planning Board shall assign each temporary member as necessary when absence of regular members of said Board or a conflict of interest of a regular member of said Board would otherwise prevent five members of such Board from considering any pending matter, but no more than two temporary member shall sit in determination of any pending matter. Such temporary member shall be designated on a rotating basis such that each temporary member shall be afforded an equal opportunity to serve. Once designated to serve on a particular matter before the Board, the temporary member shall have the same powers and duties as regular members of the Board until the matter is concluded. Any determination of said Board consisting of a temporary member shall have the same weight and be entitled to the same authority as the act or deed of the regular Planning Board member, and all laws, statutes and regulations shall apply and be applied with equal force and effect.

§ 87-78. Education and training requirements.

The Village Board shall require Planning Board members to complete training and continuing education courses as provided by law.

§ 87-79. Attendance at meetings.

All Planning Board members shall attend at least 75% of all regularly scheduled meetings of the Planning Board in each calendar year of their appointment.

§ 87-80. Removal of members.

The Mayor shall have the power to remove, after public hearing as provided for under § 7-718 of the New York State Village Law, any member of the Planning Board for cause or for failing to comply with the minimum meeting attendance or training requirements established herein.

ZONING

87 Attachment 1

Village of Liberty

Schedule of District Regulations Amended 8-9-2010 by L.L. No. 3-2010					
District Intent	Principal Permitted Uses	Special Uses (§ 87-66)	Accessory Uses (§ 87-13)	Development Standards	
R-1 Residential Low Density: The purpose of the R-1 Residential District is to provide areas within the Village for neighborhoods of single-family and two-family dwellings at low to moderate densities along with supporting uses such as schools, places of worship and recreation facilities.	Bed-and-breakfasts (§ 87-40) ¹ Essential services One-family detached dwellings Public buildings Public parks and playgrounds Two-family dwellings (§ 87-10A)	Agriculture (§ 87-34) Cemeteries Day-care facilities, family day-care only (§ 87-38) Nursery schools (§ 87-38) Places of worship, parish houses and parsonages Planned unit development (§ 87-28) Private community recreational facilities Residential conversions (§ 87-30)	Customary incidental uses and structures Minimal-impact home occupations (§ 87-18C) Private garages, toolhouses and playhouses Signs (Ch. 70)	Minimums: Lot area: Lot width: Lot depth: Front yard: Side yard: Side yards combined: Rear yard: Floor area per dwelling unit	10,000 square feet 80 feet 100 feet 25 feet 10 feet 25 feet 30 feet 1,000 square feet
R-2 Residential High Density: The purpose of the R-2 Residential District is to provide areas within the Village for higher-density neighborhoods of single-family two-family and multi-family dwellings along with supporting uses such as schools, places of worship and recreation facilities.	Bed-and-breakfasts (§ 87-40) ¹ Essential services One-family detached dwellings Public buildings Public parks and playgrounds Two-family dwellings (§ 87-10A)	Cemeteries Day-care facilities (§ 87-38) Health and senior care communities (§ 87-37) Home occupations, standard (§ 87-18) Multifamily dwellings (§ 87-29) Nursery schools (§ 87-38) Places of worship, parish houses and parsonages Planned unit development (§ 87-28) Private community recreational facilities Residential conversions (§ 87-30)	Customary incidental uses and structures Minimal impact home occupations (§ 87-18C) Private garages, toolhouses and playhouses Signs (Ch. 70)	Minimums: Lot area: Lot width: Lot depth: Front yard: Side yard: Side yards combined: Rear yard: Floor area per dwelling unit	7,000 square feet 60 feet 100 feet 25 feet 8 feet 20 feet 30 feet 800 square feet
				Maximums: Building coverage: Building height: Building height: Building height:	20% 35 feet 2.5 stories

NOTES:

¹ Subject to site plan review by Planning Board.

ZONING

Schedule of District Regulations				Development Standards	
District Intent	Principal Permitted Uses	Special Uses (§ 87-66)	Accessory Uses (§ 87-13)		
DCC Commercial Core: This district is intended to complement the Downtown Liberty Historic District designation and provide for the development of both commercial and residential uses within this area.	Bed-and-breakfasts (§ 87-40) Essential services Personal service shops Public buildings Storefront retail	Eating and drinking places Business and professional offices Funeral homes Live and work units Laundry and cleaning establishments Other retail and service establishments Owner-occupied upper-story dwellings Printing operations of less than 2,500 square feet Theaters	Customary incidental uses and structures Minimal-impact home occupations (§ 87-18C) Signs (Ch. 70)	Minimums: Lot area: Lot width: Lot depth: Front yard: Side yard: Side yards combined: Rear yard: Floor area per dwelling unit: Maximums: Building coverage: Building height: Building height:	4,000 square feet 50 feet 80 feet 20 feet None None None None 800 square feet 100% 44 feet 4.0 stories
M Manufacturing: This district is intended to provide areas within the Village for the development of job-producing business and industrial uses where such enterprises can be assured that their activities will not be in conflict with residential uses.	Essential services	Agriculture (§ 87-34) Building supply and lumberyards Greenhouses Retail outlets for on-site industrial uses Machine shops Manufacturing and industrial enterprises Printing operations Research and development labs Wholesale and warehousing	Customary incidental uses and structures Signs (Ch. 70)	Minimums: Lot area: Lot width: Lot depth: Front yard: Side yard: Side yards combined: Rear yard: Maximums: Building coverage: Building height: Building height:	4,000 square feet 100 feet 100 feet 20 feet 50 feet 100 feet 50 feet 100% 44 feet 4.0 stories

NOTES:

¹ Excluding auto, recreational vehicle and equipment sales and service, adult entertainment and bookstores, wholesale storage and warehousing establishments, gasoline filling stations, outdoor sales (§ 87-41) and uses involving hazardous substances in large quantities.

LIBERTY CODE

Schedule of District Regulations			
District Intent	Principal Permitted Uses	Special Uses (§ 87-66)	Accessory Uses (§ 87-13)
C Commercial: This district is intended to provide areas within the Village for the development of commercial businesses and enterprises that serve the service needs of village residents as well as the traveling public.	Agriculture (§ 87-34) Bed-and-breakfasts (§ 87-40) Cemeteries Essential services Nurseries and greenhouses One-family detached dwellings Personal service shops Places of worship, parish houses and parsonages Public buildings Public parks and playgrounds Retail and service establishments Two-family dwellings (§ 87-10A)	Animal hospitals Auto body repair (§ 87-39) Auto service stations (§ 87-39) Bowling alleys Building supply and lumberyards Business and professional offices Day-care facilities (§ 87-38) Eating and drinking places Funeral homes Health and senior care communities (§ 87-37) Home occupations, standard (§ 87-18) Hotels and motels (§ 87-36) Institutions (§ 87-42) Laundry and cleaning establishments Machine shops Manufactured home parks Multifamily dwellings (§ 87-29) Nursery schools (§ 87-38) Outdoor sales (§ 87-41) Planned unit development (§ 87-28) Printing operations Private community recreational facilities Recreational centers Research and development labs Residential conversions (§ 87-30) Seasonal recreational camp/school (§ 87-35) Theaters Vehicle and equipment sales and service Wholesale and warehousing	Customary incidental uses and structures Minimal-impact home occupations (§ 87-18C) Signs (Ch. 70)
Development Standards			