

**TOWN  
OF  
HENDERSON**

**SUBDIVISIONS  
AND  
ASSEMBLAGES**

## Chapter 135

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[HISTORY: Adopted by the Town Board of the Town of Henderson 5-3-1989 by L.L. No. 2-1989. Amendments noted where applicable.]

#### GENERAL REFERENCES

Fire prevention and building construction — See Ch. 90.

Zoning — See Ch. 150.

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### ARTICLE I General Provisions

#### **§ 135-1. Authorization of Planning Board.**

Pursuant to the authority granted to the town in § 10 of the Municipal Home Rule Law and §§ 276, 277 and 278 of the Town Law, the Town Board of the Town of Henderson authorizes and empowers the Planning Board of the Town of Henderson to approve plats within that part of the Town of Henderson outside the limits of any incorporated city or village and to pass and approve the development of plats already filed in the office of the Clerk of Jefferson County if such plats are entirely or partially undeveloped, and the Planning Board is authorized and empowered to approve or disapprove:

- A. Changes in the lines of existing streets, highways or public areas shown on subdivision plats or maps filed in the office of the Clerk of Jefferson County.
- B. The laying out, closing off or abandonment of streets, highways or public areas under the provisions of the Town and Highway Laws within that part of the Town of Henderson outside the limits of any incorporated city or village.

#### **§ 135-2. Title.**

This chapter shall be known as the "Subdivision Control Law of the Town of Henderson."

#### **§ 135-3. Purpose.**

The purpose of this chapter is to provide for orderly efficient growth within the community and to afford adequate facilities for the transportation, housing, comfort, convenience, safety, health and welfare of its population. This chapter shall supersede all previous enactments of laws and amendments pertaining to subdivision control in the Town of Henderson.

#### **§ 135-4. Applicability.**

No subdivision or portion thereof shall be sold, offered for sale, leased, rented or otherwise disposed of by any corporation, company or person until a plan or map of such subdivision shall be submitted to the Planning Board for approval, and either approved or deemed approved by failure of the Planning Board to render a decision within the time specified in § 135-13. Further, no such transaction shall take place until such approved plat has been duly filed in the office of the County Clerk.

#### **§ 135-5. Administration.**

This chapter shall be administered by the Planning Board and the Subdivision Inspector, as defined herein.

**§ 135-6. Waiver.**

The Planning Board may waive requirements and standards contained in Articles V and VI of this chapter when, in their opinion, due to the special circumstances of a particular plat or plats, they are not essential to the public's health, safety and general welfare.

**§ 135-7. Fees. [Amended 2-5-1992 by L.L. No. 1-1992]**

- A. All applicants for any plat approval under this chapter are required to pay a fee to cover the administrative expenses of the town unless otherwise exempted in this chapter. Failure to pay such a fee shall be deemed a violation of this chapter.
- B. All applications for any plat approval shall be accompanied by a cash deposit, certified check or surety bond payable to the Town of Henderson in an amount determined by:
  - (1) Supervisor for all applications requiring the Town Board's approval or other action.
  - (2) Chairman of the Planning Board, for all applications requiring the Planning Board's approval or other action.
  - (3) Chairman of the Zoning Board of Appeals for all applications requiring such Board's approval or decision.
- C. The Supervisor, Chairman of the Planning Board or Chairman of the Zoning Board of Appeals, as the case may be, shall if necessary obtain estimated expenses from the Town Engineer, Town Attorney and Town Clerk prior to setting the amount of the cash deposit, certified check or surety bond required of each applicant.
- D. The Supervisor, Chairman of the Planning Board or Chairman of the Zoning Board of Appeals, as the case may be, may require additional security for the town's administrative expense, in accordance with the provisions of this section, in the event that the town's potential liability for such expense exceeds the initial amount deposited.
- E. Upon completion of the latter of: final approval, approval with modifications or rejection of any application or approval; or final approval of any and all completed improvements and submission of all final bills to the town for its administrative expenses incurred as a result of the applicant's proposed plan, all unused funds or proceeds from a surety bond shall be refunded to the applicant.

**ARTICLE II  
Terminology**

**§ 135-8. Definitions.**

For the purpose of this chapter words and terms used herein are defined as follows:

**ADMINISTRATIVE EXPENSES:** All actual expenses and liabilities incurred by the town or any of its officers or agencies in processing and reviewing applications or appeals hereunder and ensuring

compliance with this chapter and all other applicable laws or regulations, including but not limited to engineering fees and disbursements, legal fees and disbursements, publication expenses, actual charges, administrative expenses and any other actual expenditures incurred or accrued by the town. [Added 2-5-1992 by L.L. No. 1-1992]

**ASSEMBLAGE:** The combination of two or more parcels of land to create one lot, block or site. The term "subdivision" shall include assemblage.

**FINAL PLAT:** A drawing in final form, certified by a licensed professional engineer or land surveyor, showing a proposed subdivision containing all information or detail required by law and by this chapter to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

**GENERAL PLAN:** A comprehensive or master plan for the development of the town, developed by the Planning Board and approved by the Town Board.

**JOINT SUBDIVISION/ASSEMBLAGE:** The simultaneous division of one lot and the combination of one or more such subdivided parcels with one or more lots contiguous with the subdivided parcels. A single plat showing such simultaneous division and assemblage shall be sufficient for the purposes of this chapter, provided that all of the property owners engaged in the joint subdivision are party to the plat submission.

**LANDLOCKED LOT:** A lot created by subdivision which does not have proper access according to Town Law § 280-a.

**OFFICIAL SUBMISSION DATE** — The date that all required information (as set forth in Article IV, herein) and fees for a preliminary or final plat are received by, presented to or otherwise examined by the Planning Board at an official meeting thereof. Materials presented at a sketch plan conference shall not be considered an official submission unless so decided by the Planning Board.

**PLANNING BOARD:** The Henderson Town Planning Board.

**PRELIMINARY PLAT:** A drawing or drawings clearly marked "preliminary plat" showing the layout of a proposed subdivision, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

**ROAD, MAJOR:** A road intended to serve heavy flows of traffic from minor roads or as a business road providing access to business properties.

**ROAD, MINOR:** A road intended to serve primarily as an access to abutting residential properties.

**SKETCH PLAN:** A sketch of a proposed subdivision to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of this chapter.

**SUBDIVISION:** The division of any parcel of land into two or more lots, blocks or sites. The term "subdivision" shall include assemblage.

**SUBDIVISION INSPECTOR:** Any person appointed, designated or otherwise retained by the Town Board to carry out the functions assigned to such person according to this chapter.

**SUBDIVISION, MAJOR:** A subdivision which in the judgment of the Planning Board is sufficiently complex as to require both a preliminary plat submission, as well as a final plat submission.

**SUBDIVISION, MINOR:** A subdivision which in the judgment of the Planning Board is sufficiently uncomplicated that only a final plat submission is required.

**UNDEVELOPED PLAT:** Those plats where 20% or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.1

**ARTICLE III**  
**Review Procedure**

**§ 135-9. Duties of Subdivision Inspector; processing of major and minor subdivisions.**

A. Duties of the Subdivision Inspector. The Subdivision Inspector shall:

- (1) Be responsible to the Planning Board.
- (2) Provide general information to subdividers regarding the requirements of this chapter, including advice regarding contact with other governmental agencies.
- (3) Facilitate the process of plat submission.
  - (a) Check applications for completeness.
  - (b) Recommend to the Planning Board whether the submission should be reviewed as a major or minor subdivision.
  - (c) Assist the Planning Board in scheduling public hearings and plat reviews.
- (4) Serve as Clerk of the Planning Board and serve as liaison officer with the County Clerk, Zoning Enforcement Officer, Town Board and such other agencies as may seem appropriate.
- (5) Follow the progress of plat submissions from preliminary review through final disposition, including keeping records of dates of submission and dates of filing of plats with the County Clerk.
- (6) Issue notices of noncompliance with this chapter to subdividers with appropriate notification of town agencies of such noncompliance.
- (7) Have such other duties as the Planning Board or the Town Board shall deem appropriate.

B. Minor subdivisions shall be processed in the following stages:

- (1) Sketch plan conference with Subdivision Inspector (optional).
- (2) Final plat submission.
- (3) Public hearing.
- (4) Planning Board renders decision on final plat.
- (5) Filing of approved plat by subdivider with County Clerk.

C. Major subdivisions shall be processed in the following stages:

- (1) Sketch plan conference with Subdivision Inspector (optional).
- (2) Preliminary plat submission.
- (3) Public hearing.
- (4) Planning Board renders decision on preliminary plat.
- (5) Final plat submission.
- (6) Public hearing (optional).
- (7) Planning Board renders decision on final plat.
- (8) Filing of approved plat by subdivider with County Clerk.

**§ 135-10. Preapplication procedure.**

Prior to the preparation of and the submission of a plat for approval, the subdivider should proceed to gather data concerning the existing conditions of the site and information regarding financing, planning and marketing feasibility. Early contact with the New York State Department of Health and Department of Environmental Conservation is advised. A preliminary layout, in sketch form, developed in conjunction with a licensed land surveyor may be submitted to the Planning Board for advice and assistance.

**§ 135-11. Sketch plan conference.**

The subdivider should request an appointment with the Subdivision Inspector for the purpose of reviewing the sketch plan to consider and review such sketch plan and the development schedule, as they relate to the general plan, design standards and improvement requirements. This meeting is intended to assist the subdivider in the planning and preparation of the preliminary or final plat to save him both time and money in preparing maps and plans. The plan will be classified as a minor or major subdivision by the Planning Board as defined by this chapter. This step does not require formal application, fee or filing with the Planning Board.

**§ 135-12. Preliminary plat.**

All major subdivisions shall be subject to the preliminary plat requirements, as specified herein. The subdivider shall file an application for approval of the preliminary plat on forms available from the Town Clerk accompanied by all documents specified in Article IV herein.

- A. Review of subdivision. Following the review of the preliminary plat and supplementary material submitted for conformity to this chapter, and following negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, the Planning Board shall hold a public hearing. This hearing shall be held within 45 days of the official submission date of the plat. The subdivider shall attend the hearing. Within 45 days from the public hearing, the Planning Board shall approve, approve with modifications or disapprove the preliminary plat and state its reasons for disapproval. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board.

- B. Notice of public hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before the hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate to gain full public consideration of the subdivision proposal.
- C. Notice of decision. Within five days of the Planning Board's decision, the action taken shall be noted on three copies of the preliminary plat and reference made to any modifications determined. One copy shall be returned by mail to the subdivider and the other two copies retained by the Planning Board.
- D. Effect of approval. Approval of a preliminary plat shall not constitute approval of the final plat. The preliminary plat shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion thereof for formal review, the subdivider must comply with this chapter and all requirements set forth by the Planning Board in their review of the preliminary plat, and any other local, state or federal permitting requirements.

**§135-13. Final plat.**

- A. All subdivisions, as defined herein, shall require final plat approval by the Planning Board.
- B. The subdivider shall file an application for final plat review on forms available from the Town Clerk, and accompanied by documentation as specified in Article IV herein, to the Planning Board. Such application shall be submitted at least 10 days prior to the meeting at which it is to be considered by the Planning Board and without consent of the Planning Board, no later than six months after the date of the preliminary plat approval.
- C. Optional public hearing. A public hearing may be held by the Planning Board after a complete application is filed and prior to rendering a decision. This hearing shall be held within 45 days of the official submission date of the plat. The subdivider shall attend the hearing. The Planning Board shall approve, conditionally approve or disapprove the final plat within 45 days of the public hearing. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board.
- D. If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board. Failure of the Planning Board to render a decision within the stated forty-five-day period shall be deemed final approval of the plat.
- E. Notice of public hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before the hearing. The Planning Board may provide that the hearing be further advertised in such a manner as it deems most appropriate to gain full public consideration of the subdivision proposal.
- F. Waiver of public hearing. If the final plat is in substantial agreement with the preliminary plat, the Planning Board may waive the public hearing requirement. If no hearing is held, the Planning Board shall approve, conditionally approve or disapprove the plat within 45 days of the official submission date.
- G. Notice of decision. Within five days of the Planning Board's decision, the subdivider shall be notified by mail of the Board's final action. The subdivider shall record the final plat, or section thereof, in the office of the Clerk of Jefferson County, New York within 60 days after the date of approval; otherwise the plat shall be considered void and must again be submitted to the Planning Board for approval before recording in the office of the Clerk of Jefferson County, New York.



- H. Conditional approval. Within five days of granting conditional approval, the plat shall be certified by the Clerk of the Planning Board as conditionally approved, filed in the office of the Planning Board and mailed to the subdivider along with a certified statement of the requirements of the conditional approval. Conditional approval of a final plat shall expire 180 days from the date it is granted. The Planning Board may, however, extend the expiration time, not to exceed two additional periods of 90 days each. Upon completion of the requirements of the conditional approval, a duly authorized officer of the Planning Board shall sign the plat thereby certifying it as completed.
- I. Filing of plats in sections. Prior to granting conditional or final approval of a plat in final form the Planning Board may permit the plat to be subdivided into two or more sections and may in its resolution granting conditional or final approval state that such requirements, as it deems necessary to ensure the orderly development of the plat, be completed before such sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Board, shall be granted concurrently with conditional or final approval of the plat.
- J. In the event that the owner shall file only a section of such approved plat in the office of the County Clerk, the entire approved plat shall be filed within 30 days of the filing of such section with the Town Clerk in each town in which any portion of the land described in the plat is situated. Such section shall encompass at least 10% of the total number of lots contained in the approved plat, and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of § 265-a of the Town Law.

**ARTICLE IV**  
**Documents to be Submitted**

**§ 135-14. Information required for all plat submissions.**

- A. Name and address of subdivider and professional advisers, including license numbers and seals.
- B. Map of property, drawn to scale, at a scale of one inch to 50 feet, one inch to 100 feet or one inch to 200 feet, showing:
  - (1) Subdivision name, scale, magnetic and approximate true North arrow and date.
  - (2) Subdivision boundaries.
  - (3) Contiguous properties and names of owners.
  - (4) Existing and proposed roads, sidewalks, utilities, drainage systems and drainageways.
  - (5) Watercourses, marshes, wooded areas, public facilities and other significant physical features on or near the site.
  - (6) Proposed pattern of lots, including lot widths and depths, road layout, open space, drainage, water supply and sewage disposal facilities.
  - (7) Land contours at ten-foot intervals or other suitable indicators of slope.
  - (8) Proposed alterations of existing topography.

- C. Copy of tax map(s).
- D. Design and location of a water supply and on-site sanitation facilities in accordance with Article V, §§ 135-22 and 135-23, herein.
- E. Total acreage of subdivision and number of lots proposed.
- F. Building types, approximate size and cost.
- G. The environmental assessment form as required by the State Environmental Quality Review Act (SEQR).
- H. All fees required pursuant to § 135-7 of this chapter. [Added 2-5-1992 by L.L. No. 1-1992]

**§ 135-15. Required information for minor subdivisions.**

The following shall be submitted with all applications for approval of a final plat for a minor subdivision:

- A. One copy of the plat to be submitted to the County Clerk, drawn with ink on appropriate material, plus two paper copies.
- B. Information specified under § 135-14, updated and accurate.
- C. Sufficient data acceptable to the Planning Board to readily determine the location, bearing and length of every road line, lot line and boundary line; such data shall be sufficient to allow for the reproduction of such lines on the ground.
- D. Design and location of all water supply and on-site sanitation facilities in accordance with Article V, §§ 135-22 and 135-23, herein.
- E. Copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- F. Additional information as deemed necessary by the Planning Board.
- G. Any required fees.

**§ 135-16. Preliminary plat for major subdivision.**

The following shall be submitted with all applications for approval of a preliminary plat for a major subdivision:

- A. Three copies of the plat map, drawn to scale. The map scale shall be one inch to 100 feet unless otherwise specified by the Planning Board.
- B. All information specified under § 135-14, updated and accurate.
- C. All parcels of land proposed to be dedicated to public use and the conditions of such use.
- D. Grading and landscaping plans.
- E. The width and location of any roads or public ways and the width, location, grades and road profiles of all roads or public ways proposed by the developer.

- F. The approximate location and size of all proposed water lines, hydrants and sewer lines, showing connection to existing lines.
- G. Drainage plan, indicating profiles of lines or ditches and drainage easements on adjoining properties.
- H. Plans and cross section showing sidewalks, road lighting, roadside trees, curbs, water mains, sanitary sewers and storm drains, the character, width and depth of pavements and subbase, and the location of any underground cables.
- I. Preliminary designs for any bridges or culverts.
- J. The proposed lot lines with approximate dimensions and area of each lot.
- K. An actual field survey of the boundary lines of the tract, giving complete description by bearings and distance, made and certified by a licensed surveyor. The corners of the tract shall also be marked by monuments of such size and type as approved by the Planning Board, shown on the plat.
- L. A copy of all covenants or deed restrictions intended to cover all or part of the tract.
- M. Where the preliminary plat submitted covers only a part of the subdivided s entire holding, a sketch of the prospective future road and drainage system of the unsubdivided part shall be submitted for study to the Planning Board.
- N. Additional information as deemed necessary by the Planning Board.
- O. Any required fees.

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**§ 135-17. Final plat for major subdivision.**

The following shall be submitted with all applications for approval of a final plat for a major subdivision:

- A. One copy of the plat to be submitted to the County Clerk, drawn with ink on suitable material, plus two copies. The map scale shall be one inch to 100 feet, unless otherwise specified by the Planning Board, showing or indicating:
  - (1) Proposed subdivision name and the name of the town and county in which the subdivision is located; the name and address of record owner and subdivider; name address, license number and seal of the surveyor and/or engineer.
  - (2) Road lines, pedestrianways, lots, easements and areas to be dedicated to public use.
  - (3) Sufficient data acceptable to the Planning Board to determine readily the location, bearing and length of every road line, lot line, boundary line; such data shall be sufficient to allow for the reproduction of such lines on the ground.
  - (4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves; tangent bearings shall be given. The plat shall show the boundaries of the property, locations, graphic scale and magnetic and approximate true North.

- (5) All offers of cession and any covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
  - (6) Permanent reference monuments shall be shown and constructed in accordance with Planning Board specifications.
  - (7) Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of road, sidewalks, road lighting standards, roadside trees, curbs, water mains, sanitary sewer or septic systems, storm drains or ditches, pavements, and subbase and other facilities.
  - (8) Evidence of legal ownership of property.
  - (9) Deed restrictions, existing and proposed in form for recording.
  - (10) All those items required by § 135-14, Subsections B(2) through (8).
- B. A certificate by the Subdivision Inspector certifying that the subdivider has complied with one of the following alternatives:
- (1) All improvements have been installed in accord with requirements of this chapter and with the action of the Planning Board giving approval of the preliminary plat; or
  - (2) Installation guaranties have been provided for, as indicated in Article VI, in sufficient amount to assure such completion of all required improvements.

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- C. State Health Department and/or State Department of Environmental Conservation approval(s) of water supply systems and sewage disposal systems as shown or installed, and any permits as required by any federal, state or local law.
- D. Any other data, such as certificates, affidavits, endorsements or other agreements, as may be required by the Planning Board in enforcement of this chapter.

**§ 135-18. Waiver of submission requirements.**

When an application concerns a subdivision of an uncomplicated nature, such as a small subdivision along an existing road that requires no installation of public facilities, the Planning Board may waive certain submission requirements.

ARTICLE V

**Design Standards and Required Improvements**

**§ 135-19. Road design standards.**

- A. Conformity with general plan. The arrangement, width, location and extent of major roads and all minor roads should conform and be in harmony with the general plan and road construction standards of the town. All roads shall be installed at the expense of the subdivider and shall meet the requirements of the Planning Board based on existing and planned roads, topography, public

safety, convenience and proposed uses of land. The Town Highway Superintendent shall be consulted by the Planning Board for an advisory opinion before the approval of any new road.

- B. Arrangement. Residential minor roads shall be designed to discourage through traffic, whose origin and destination is not within the subdivision. Road intersections shall be as near to right angles as possible and shall be separated from one another at a distance specified by the Planning Board and Town Highway Superintendent to promote safe traffic circulation.
- C. Location. When a proposed subdivision is adjacent to or contains a state highway, the Planning Board may seek information from the New York State Department of Transportation as to the status of said highway in reference to right-of-way and direction. The Planning Board may require a marginal road approximately parallel to and on each side of such a right-of-way at a distance suitable for an appropriate use of the intervening land as for park purposes in residential district, or for commercial or industrial purposes. Such distance shall also be determined with due regard for the requirements of approach grades and future grade separation. Railroad rights-of-way shall receive similar consideration.
- D. Dead-end roads. Each dead-end road shall be provided with a turnaround deemed sufficient by the Town Highway Superintendent and Planning Board for snow plowing. Dead-end roads designed to be so permanently shall not be permitted unless provided with a turnaround.
- E. Half roads. Dedication of a half road shall be prohibited.
- F. Access. In commercial and industrial districts, definite and assured provision shall be made for service access, such as off-road parking, loading and unloading consistent with and adequate for the uses proposed.

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- G. This chapter specifically prohibits the creation of landlocked lots as herein defined. This provision may not be waived by the Planning Board, which shall give particular attention to the review of undeveloped plats in this context.
- H. Names and numbers. Names of new roads shall not duplicate existing or platted roads. New roads which are extended or in alignment with existing roads shall bear the name of the existing roads. House numbers shall be assigned in accordance with the house- numbering system now in effect in the town.
- I. Road signs. The subdivider shall provide and erect road identification and traffic control signs of a type to be approved by the Town Board on all roads prior to acceptance of the constructed roads.
- J. Trees. If roadside trees are provided, they should be outside of the road right-of-way and planted in such a manner as not to impair visibility at any corner or comers.

**§ 135-20. Sidewalks.**

Sidewalks may be required and shall be installed as follows:

- A. Sidewalks shall be installed at the expense of the subdivider, at such locations as the Planning Board may deem necessary.

- B. Sidewalks must be constructed to comply with the detail specifications of the Planning Board.
- C. Sidewalks shall be concrete (three-thousand-pound minimum strength) or other approved material and shall have a minimum width of four feet in residential areas, and five feet in commercial and industrial areas. They shall be four inches thick, except at driveway crossings where the sidewalk shall be six inches thick and reinforced.
- D. Sidewalk construction design shall include accommodations for the handicapped.

**§ 135-21. Utilities.**

Public utility improvements may be required and shall be installed as follows:

- A. Fire protection. Hydrants to be of size, type and location specified by the Insurance Services Organization. Systems shall be reviewed by the Town Fire District.
- B. Streetlighting. Poles, brackets and lights to be of size, type and location approved by the local power company.
- C. Electricity. Power lines shall be placed underground and shall be approved by the local power company.
- D. Utility services shall be located from six feet to eight feet from the front property line to the center line of the utility service, between the sidewalk and curb line.

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§ 135-24

**§ 135-22. Water supply.**

Adequate water supply shall be available to the subdivision. All water supply systems shall meet the requirements of the New York State Sanitary Code, receive approval of the Planning Board and be installed at the expense of the subdivider.

- A. All individual wells shall be designed in accordance with Appendix 5-B of the State Sanitary Code, entitled "Rural Water Supply." Test well data shall be provided for at least 10% of the proposed lots, and for each test well a twelve-hour pump test shall be conducted. The results of such tests shall be submitted to the Planning Board.
- B. If, in the opinion of the Planning Board, it is feasible and desirable to require a public water supply system, such system shall receive approval of the New York State Department of Health.

**§ 135-23. Sewage disposal.**

Adequate sewage disposal systems shall be provided by the subdivider, and all systems shall meet the requirements of the New York State Sanitary Code and receive approval of the Planning Board.

- A. Individual septic systems shall be installed in accordance with Appendix 75-A of the State Sanitary Code, entitled "Waste Treatment-Individual Household Systems." Perk tests and deep hole tests shall be performed for at least V3 of the total number of lots in the subdivision.

- B. If, in the opinion of the Planning Board, it is feasible and desirable to require a community sanitary sewage system, such system shall receive any necessary approvals from the New York State Departments of Health and Environmental Conservation.

**§ 135-24. Lots.**

- A. Location. All lots shall abut by their full frontage on public roads and/or ensure suitable access.
- B. Dimensions. The lot size, width, depth, shape and area shall comply with Chapter 150, Zoning, of the Code of the Town of Henderson.
- C. Double frontage lots. Frontings on two roads, other than corner lots, shall be discouraged.
- D. Pedestrian easements. In order to facilitate pedestrian access from roads to schools, parks, play areas or nearby roads, perpetual unobstructed easements at least 20 feet wide may be required by the Planning Board. In heavy traffic areas, sidewalks may be required in addition.
- E. Setback. The provisions of the Chapter 150, Zoning, shall apply regarding setback lines.
- F. Lot lines. Side lot lines shall be approximately at right angles to the road or radial to curved roads. Other arrangements of lot lines may be approved by the Planning Board if topography, development plans or other factors indicate such to be advantageous.
- G. Corner lots. Lots for residential use shall have extra width to permit appropriate building setbacks from and orientation to both roads.

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**§ 135-25. Unique and natural features.**

Unique physical features, such as historic landmarks and sites, rock outcrops, hilltop lookouts, desirable natural contours and similar features shall be preserved where possible. Also streams, lakes, ponds and wetlands shall be left unaltered and protected by easements. All surfaces must be graded and restored within six months of completion of subdivision so that no unnatural mounds or depressions are left. Original topsoil moved during construction shall be returned and stabilized by approved methods. Damage to existing trees should be avoided.

**§ 135-26. Public open spaces and sites.**

Consideration shall be given to the allocation of areas suitably located for community purposes as indicated on the general plan and be made available by one of the following methods:

- A. Dedication to the town.
- B. Reservation of land for the use of property owners by deed or covenant.

- C. Reservation for acquisition by the town within a reasonable period of time. Said reservation shall be made in such manner as to provide for a release of the land to the subdivider in the event that the town does not proceed with the purchase.
- D. If the Planning Board determines that suitable park or parks of adequate size can not be properly located in the plat or are otherwise not practical, the Board may require as a condition to approval of the plat that a payment to the town of a sum to be determined by the Town Board, which sum shall constitute a trust fund to be used by the town exclusively for neighborhood park, playground or recreational purposes, including the acquisition of property.
- E. The Planning Board may require the reservation of such other areas or sites of a character, extent and location suitable to the needs of the town as water plants, sewage treatment plant and other community purposes not anticipated in the general plan.

**§ 135-27. Unsuitable land for subdivision.**

As a safety measure for the protection of the health and welfare of the people of the town, that portion of a proposed lot which is found to be unsuitable for subdivision due to harmful features (e.g., drainage problems) shall not be subdivided until adequate methods are formulated by the subdivider and approved by the Planning Board. Before final approval the subdivider shall, in lieu of the improvements, provide installation guaranties as indicated in Article VI.

ARTICLE VI  
**Installation of Improvements**

**§ 135-28. Installation guaranty.**

In order that the town has the assurance that the construction and installation of such improvements as storm sewers, water supply, sewage disposal, landscaping, road signs, sidewalks, parking, access facilities and road surfacing will be constructed, the Planning Board shall require that the applicant complete said improvements before final approval is granted or that the applicant shall enter into one of the following agreements with the town:

§ 135-28

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§ 135-31

- A. Furnish bond executed by a surety company equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the applicant and approved by the Planning Board. Such bond shall require the approval of the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety.
- B. In lieu of the bond, the applicant may deposit cash, certified check, an irrevocable bank letter of credit, a certificate of deposit or other forms of financial security acceptable to the town. Acceptable substitutes, if furnished, shall be kept on deposit with the town for the duration of the bond period.

**§ 135-29. Maintenance guaranty.**

- A. In order that the town has the assurance that the improvements mentioned above function properly for a reasonable period, the applicant shall enter into an agreement with the town upon completion of the work required under the installation guaranty so that:
  - (1) Such work is guaranteed for a minimum of two years after it is completed and inspected.



- (2) Such work is guaranteed for a minimum of 10% of the total improvement costs or \$5,000, whichever is greater.

- B. The method of providing the maintenance guaranty shall meet the approval of Town Board and the Town Attorney.

**§ 135-30. Conditions.**

- A. Installation and maintenance guaranties to the town shall provide that the subdivider, his heirs, successors and assigns, their agent or servants will comply with all applicable terms, conditions, provisions and requirements of this chapter and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with such laws and regulations.
- B. Any such guaranties shall require the approval of the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety, and the same shall be made payable to the town.

**§ 135-31. Extension of time.**

The construction or installation of any improvements or facilities, other than roads, for which guaranty has been made by the subdivider in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the final plat. Road improvements shall be completed within two years from the date of approval of the final plat. The subdivider may request an extension of time, provided that he can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six months, at the end of which time the town may use as much of the bond or check deposit to construct the improvements as necessary. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.

§ 135-32

SUBDIVISION OF LAND

§ 135-37

**§ 135-32. Agreement; schedule of improvements.**

When installation guaranties are made pursuant to § 135-28, the town and subdivider shall enter into a written agreement itemizing the schedule of improvements in sequence. Each cost as listed may be repaid to the subdivider upon completion and approval after inspection of such improvement or installation.

**§ 135-33. Modification of requirements.**

Upon approval by the Town Board, the Planning Board after due notice and public hearing may modify its requirements for any or all improvements, and the face value of the installation guaranty shall thereupon be increased or reduced by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Planning Board, and any security deposited with the installation guaranty may be increased or reduced proportionately.

**§ 135-34. Inspections.**

Periodic inspections during the installation of improvements shall be made by the Subdivision Inspector to ensure conformity with the approved plans and specifications as contained in the subdivider's contract and this chapter. The subdivider shall notify the Subdivision Inspector when each phase of improvements is ready for inspection. (At least five days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board). Upon acceptable completion of installation and improvement, the town shall issue a letter to the subdivider or his representative certifying the completion of such work.

**§ 135-35. Acceptance of roads and facilities.**

When the Town Highway Superintendent and the Subdivision Inspector, following final inspection of the improvements, certify to the Town Board that all installation and improvements have been completed in accordance with the contract, the Town Board may, by resolution, proceed to accept the facilities for which installation and maintenance guaranties have been provided.

**ARTICLE VII  
Miscellaneous Provisions**

**§ 135-36. Penalties for offenses.**

- A. Any person, firm or corporation who commits an offense against, disobeys, neglects or refuses to comply with or resist the enforcement of any of the provisions of this chapter shall, upon conviction, be deemed guilty of a violation. Each week an offense is continued shall be deemed separate violation of this chapter.
- B. In addition to the penalties provided by statute, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

**§ 135-37. Certification and filing with county.**

The Town Clerk is hereby directed to forthwith file a certified copy of this chapter with the Clerk of Jefferson County.