

# **ZONING**

## **Chapter 140**

**Town**

**of**

**ROCHESTER**

**GENERAL  
CODE  
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## **Chapter 140**

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**[HISTORY: Adopted by the Town Board of the Town of Rochester 3-15-1983 by L.L. No. 1-1983. Amendments noted where applicable.]**

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**ARTICLE I  
Title and Scope**

**§ 140-1. Scope.**

The following chapter provides for the regulating and restricting the location, construction, alteration, occupancy and use of buildings and structures and the use of land in the Town of Rochester and for said purposes dividing the town into zoning districts.

**§ 140-2. Title.**

This chapter shall be known and may be cited as "The Zoning and Land Use Control Law of the Town of Rochester."

**§ 140-3. Enactment pursuant to state law; purposes.**

This chapter is enacted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, to protect and promote public health, safety, morals, comfort, convenience, economy, town esthetics and the general welfare and for the following additional purposes:

- A. To promote and effectuate the orderly physical development of the Town of Rochester;
- B. To encourage the most appropriate use of land in the community in order to conserve and enhance the value of property;
- C. To provide adequate and suitably located commercial facilities;
- D. To protect and enhance existing wooded areas, scenic areas and waterways and to preserve, where appropriate, the essentially rural character of the town;
- E. To regulate building densities in order to assure access of light and circulation of air, in order to facilitate the prevention and fighting of fires, in order to prevent undue concentration of population and in order to provide efficient municipal utility services;
- F. To improve transportation facilities and traffic circulation and to provide adequate off-street parking and loading facilities;
- G. To realize a development plan property designed to conserve the use of land and the cost of municipal services;
- H. To assure privacy for residences and freedom from nuisances and things harmful to the senses;
- I. To protect the community against unsightly, obtrusive, and noisome land uses and operations;

- J. To enhance the esthetic aspects throughout the entire community and maintain its present natural beauty;
- K. To provide adequate and suitably located areas for resort activities;
- L. To provide and assure, where appropriate, adequate use of solar resources;
- M. To preserve and protect lands and buildings that are historically significant; and
- N. To allow persons to conduct businesses, trades or professions at home so long as such home occupations are clearly accessory uses in relation to the use of the property for residential purposes, do not result in external evidence (visual or otherwise) of such uses from the perimeter of the property and from the roadway(s) adjoining the property (except for parking and loading), do not result in excessive traffic, do not result in fire or other hazards, do not result in excessive energy or resource use and consequently do not change the residential character of the property and neighborhood. [Added 9-3-1992 by L.L. No. 3-1992]

## ARTICLE II Terminology

### § 140-4. Word usage.

- A. The word “shall” is always mandatory. The word “may” is permissive. “Building” or “structure” includes any part thereof. The word “lot” includes the word “plot” or “parcel.” The word “person” includes an individual person, firm, corporation, copartnership and any other agency of voluntary action and is more specifically defined hereinafter.
- B. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for” and “occupied for.”
- C. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and words used in the plural number shall include the singular, unless the context clearly indicates to the contrary.

### § 140-5. Definitions.

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

**ACCESSORY BUILDING** — A building detached from and subordinate to a main building on the same lot and used for purposes customarily incidental to those of the main building.

**ACCESSORY USE** — A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**ALTERATION** — As applied to a building or structure, a change or rearrangement in the structural parts or facilities of such building or structure or any enlargement thereof, whether by extension on any side or by any increase in height or the moving of such

building or structure from one location to another or by winterizing of buildings not previously suitable for winter occupancy.

**AREA, BUILDING** — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of terraces and uncovered steps.<sup>1</sup>

**ATTIC** — That space of a building which is immediately below and wholly or partly within the roof framing. An attic with a finished floor shall be counted as ½ story in determining the permissible number of stories.

**AUTOMOBILE (AUTO)** — Refer to “motor vehicle.”

**AUTOMOBILE JUNKYARDS** — Any place of storage or deposit, whether in connection with another business or not, where more than one unregistered, old or secondhand motor vehicle, including stock cars, no longer intended or in condition for legal use on the public highways are held, unless the same are fully enclosed within a building, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk more than one such vehicle. (See “junkyard” definition).<sup>2</sup>

**BASEMENT** — A story partly below finished grade, having at least ½ of its height, measured from floor to ceiling, but not less than four feet, above average finished grade. A basement shall be counted as one story in determining the height of a building in stories.

**BED-AND-BREAKFAST ESTABLISHMENT** — An owner-occupied, detached, one-family dwelling unit that also contains guest rooms, where short-term lodging with food and drink is provided for compensation.<sup>3</sup>

**BILLBOARDS** — A sign or structure which directs attention to an idea, product, business activity, service or entertainment which is conducted, sold or offered elsewhere than upon the lot on which such sign is situated.

**BOARDINGHOUSE** — A building, other than a hotel, in which at least three, but not more than six sleeping rooms are offered for rent, with or without meals. A lodging house, tourist house or rooming house shall be deemed a boardinghouse.

**BOUNDARY LINE** — For purposes of this chapter, particularly with respect to Article V, the property line as set forth in the property owner’s deed, except for that portion of the line which abuts a public road, private road, easement or right-of-way, in which case the boundary line shall be determined to be measured from the center of said public/private road, easement or right-of-way, regardless of what is called for in the owner’s deed.

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<sup>1</sup> Editor’s Note: Former definition for “area of special flood hazard” was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I)

<sup>2</sup> Editor’s Note: Former definition for “base flood” was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>3</sup> Editor’s Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**BUILDING** — Any structure which is permanently affixed to the land, has one or more floors and a roof and is intended for the shelter, housing or enclosure of persons, animals or chattel, including mobile homes. (Refer to “mobile home” for detailed definition of the same.)<sup>4</sup>

**BUILDING, ACCESSORY** — Refer to “accessory building.”

**BUILDING, DETACHED** — A building surrounded by open space on the same lot.

**BUILDING GROUP** — A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in ownership and having any yard in common.

**BUILDING LINE** — The line, established by statute, local law or ordinance beyond which a building shall not extend, as specifically provided by law.

**BUILDING, MAIN** — A building in which is conducted the principal use of the lot on which it is located.

**BUILDING, PRINCIPAL** — A building in which is conducted the main or principal use of the lot on which said building is situated.

**BUILDING, SEMIATTACHED** — A building attached by a party wall to another building normally of the same type on another lot, but having one side yard.

**BULK** — A term used to describe the size, volume, area and shape of buildings and structures and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures or other walls of the same building; and all open spaces required in connection with a building, other structure or tract of land.

**BUNGALOW COLONY** — A group of two or more vacation or residence dwelling units on a single premises designed for seasonal occupancy and not more than one of which is used for the purpose of all-year-round residence which premises does not contain a public lobby or dining rooms serving guests. The term “bungalow colony” includes cottage or cabin colonies or development but does not include trailer park, trailer camp, boardinghouse, hotel or motel.

**CAMP** — Any parcel of land on which are located two or more tents, shelters or other accommodations of a design or character suitable for summer season or other more or less temporary living purposes, including a day camp, but not including a travel trailer camp, boardinghouse, hotel or motel or bungalow colony and which is open to the public. “Summer season” shall mean from Memorial Day to September 30th.<sup>5</sup>

**CAMPING RESORT** — A parcel of land which is planned and improved as a commercial enterprise for the placement of two or more travel trailers, recreational vehicles (camping and park models), camping cabins and/or tents which are used as temporary vacation living quarters for occupancy by any respective party in any particular camping resort for no more than 180 consecutive days. This use does not include a camp. [Added 8-5-1993 by L.L. No. 3-1993]

<sup>4</sup> Editor’s Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>5</sup> Editor’s Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**CELLAR** — Any space in a building, the structural ceiling level of which is less than four feet above average finished grade where such grade meets the exterior walls of the building. A cellar shall not be counted in determining the permissible number of stories.

**CLUB MEMBERSHIP** — An organization catering exclusively to members and their guests or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities, except as required generally for the membership and purposes of such club.

**COMMERCIAL VEHICLE** — A vehicle of more than one ton capacity used for the transportation of persons or goods primarily for gain or a vehicle of any capacity carrying a permanently affixed sign exceeding one square foot in area or lettering of a commercial nature.

**COMMUNITY POLE** — A sign owned and maintained by the Town Board by a group of business people as approved by the Town Board and which sign contains several directional signs for the purpose of directing persons to business and community establishments within the community.

**CONTRACTOR'S YARD** — Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery or vehicles or parts thereof, which are in active use by a construction contractor.

**COVERAGE** — That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.<sup>6</sup>

**DEVELOPMENT** — The utilization of a lot or tract of land for two or more uses.

**DISTRICT, MORE RESTRICTED OR LESS RESTRICTED** — In the following lists, each district shall be deemed to be more restricted than the districts which follow it: F, HD, R-2, R-1, A, B and I.<sup>7</sup>

**DRIVE-IN MOVIE** — An open lot or part thereof, with appurtenant facilities devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

**DUMP** — A lot or land used primarily for the disposal by abandonment, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or part thereof or waste material of any kind.

**DWELLING** — A building designed or used principally as the living quarters for one or more families. The terms "dwelling," "one-family dwelling," "two-family dwelling," "multifamily dwelling," "multiple-dwelling" or "dwelling group" shall include mobile homes but shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy. (See "residence")<sup>8</sup>

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<sup>6</sup> Editor's Note: Former definition for "dangerous building" was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I)

<sup>7</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>8</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



DWELLING, MULTIFAMILY — A dwelling containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other.<sup>9</sup>

DWELLING, ONE-FAMILY — A building containing one dwelling unit only.

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

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one family.

FAMILY — One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit.<sup>10</sup>

FINISHED GRADE — The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade (in computing the height of building and other structures or for other purposes) shall be the average elevation of all finished grade elevations around the periphery of the building.<sup>11</sup>

FLOOR AREA — The aggregate sum of the gross horizontal areas of the several floors of the building or buildings measured from the exterior walls or from the center lines of walls separating two buildings.

A. In particular, the floor area of a building or buildings shall include:

- (1) Basement space.
- (2) Elevator shafts and stairwells at each floor.
- (3) Floor space for mechanical equipment, with structural headroom of seven feet and six inches, or more.
- (4) Penthouse.
- (5) Attic space (whether or not a floor has actually been laid), providing structural headroom of seven feet and six inches or more.
- (6) Interior balconies and mezzanines.
- (7) Enclosed porches.
- (8) Accessory uses, not including space for accessory off-street parking.

B. However, the floor area of a building shall not include:

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<sup>9</sup> Editor's Note: Former definition for "dwelling group" was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I)

<sup>10</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>11</sup> Editor's Note: Former definition for "flood or flooding" was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I)

- (1) Cellar space, except that cellar space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
- (2) Elevator and stair bulkheads, accessory water tanks and cooling towers.
- (3) Floor space used for mechanical equipment, with structural headroom of less than seven feet and six inches.

(Cont'd on page 14009)

- (4) Attic space, whether or not a floor has actually been laid, providing structural headroom of less than seven feet and six inches.
- (5) Uncovered steps; exterior fire escapes.
- (6) Terraces, breezeways, open porches and outside balconies and open spaces.
- (7) Accessory off-street parking spaces.
- (8) Accessory off-street loading berths.

**GARBAGE** — Includes waste food or parts thereof, vegetable matter of any kind or any other matter which shall be capable of fermentation or decay or which shall give off an odor.

**GASOLINE FILLING STATION** — An area of land, including structures thereon or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicles of gasoline or any other motor vehicle fuel or oil and other lubricating substances, including any sale of motor vehicles accessories and which may or may not include facilities for lubricating, washing (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto bodywork, welding or painting.

**HEIGHT OF BUILDING** — The vertical distance measured from the average finished grade along the wall of the building (or adjacent to the side of the structure) to the highest point of such building or structure.

**HIGH TENSION LINE** — Any electric line operating at voltage in excess of 69kv.

**HOME OCCUPATION** — Any business, trade or profession which is conducted in a dwelling and/or in an accessory building thereto and which is carried on by members of the family residing on the property with or without nonresident employees and which is clearly an accessory use in relation to the residential use of the premises. **[Added 9-3-1992 by L.L. No. 3-1992]**

**HOSPITAL** — A building containing beds for four or more patients and used for the diagnosis, treatment or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

**HOTEL** — A building or part thereof which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may contain one or more dining rooms and is open to the public.

**HOUSE TRAILER or MOBILE HOME** — Refer to “mobile home.”

**JUNKYARD** — An area of land with or without buildings used or occupied by the storage, keeping or abandonment of junk, including scrap metals or other scrap, used or salvaged building materials, or the dismantling, demolition or abandonment of machinery or parts thereof.

**KENNEL** — Any place at which there are kept any number of dogs for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

**LIVABLE FLOOR AREA** — The enclosed floor area of a dwelling used or intended to be used for living, sleeping, cooking or eating purposes, excluding unfinished basements and

cellars, rooms for heating equipment, garages, porches, closets, bathrooms, water closet compartments, laundry, bungalows and other unheated areas, and including only such floor area under a sloping ceiling for which the headroom is not less than five feet six inches and then only if at least 75% of such floor area has a ceiling height of seven feet six inches and if any such floor that is situated above another story has access to the floor below by a permanent built-in stairway.

**LOT** — A defined portion or parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use or ownership and the customary accessories and open spaces belonging to the same.

**LOT, CORNER** — A lot situated at the junction and adjacent to two or more intersecting streets when the interior angle of intersection does not exceed 135°.

**LOT COVERAGE** — Refer to “coverage.”

**LOT, DEPTH OF** — The mean distance from the front street line of a lot to its rear line.

**LOT FRONTAGE** — A lot line which is coincident with a street line.

**LOT LINES** — The lines bounding a lot as defined herein.

**LOT THROUGH** — A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

**LOT WIDTH** — The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines; or the width of a lot measured along the real line of the required front yard.

**MOBILE HOME** — A mobile home is any residence which is designed to be transported to a home site and which is used, designed to be used or capable of being used as a detached single-family residence and which is intended to be occupied as permanent living quarters, containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems.<sup>11</sup>

**MOBILE HOME PARK** — A tract of land which is used or intended to be used for the siting of two or more mobile homes, which are used as dwellings, subject to the exceptions set forth in § 140-25I of this chapter.<sup>12</sup>

**MOTEL** — A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space and is offered for rental and use principally by motor vehicle travelers. The term “motel” includes, but is not limited to, every type of similar establishment known variously as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, roadside hotel.

**MOTOR VEHICLE** — All vehicles propelled or drawn by power other than muscular power, originally intended for use on public highways, including stock cars.

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<sup>11</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>12</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**NONCONFORMING BULK** — That part of a building, other structure or tract of land which does not conform to one or more of the applicable bulk regulations of this chapter, either following its effective date or as a result of subsequent amendments thereto.

**NONCONFORMING USE** — Any use of a building, other structure or tract of land, which does not conform to the use regulations for the district in which such use is located, either at the effective date of this chapter or as a result of subsequent amendment thereto.

**NURSERY SCHOOL** — Any place, however designated, operated for the purpose of providing daytime care or instruction for two or more children from two to five years of age, inclusive, and operated on a regular basis, including kindergartens, day nurseries and day-care centers.

**NURSING OR CONVALESCENT HOME** — A building with less than 15 sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

**PERSON** — Includes an individual, society club, firm, partnership, corporation, association or any other legally recognizable entity that has the capacity to own and/or operate real property. The singular number shall include the plural number.

**POSTER** — A temporary, nonpermanent device, which announces, directs or advertises any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, show, drive, movement or event.

**PREMISES** — A lot, together with all the buildings and uses thereon.

**PRIVATE INSTITUTION** — A building, other than a hotel, in which at least three but not more than six sleeping rooms are offered for occupancy with or without meals, or a building or any part thereof which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may contain one or more dining rooms and which is not open to the public.

**REFUSE** — Includes waste metal, metal cans, ashes, cinders glass, pottery, paper, cardboard, rags, bottles, rubbish, wood, lumber and all other discardable substances other than garbage.

**RESIDENCE, RESIDENTIAL**<sup>13</sup> — A building or any part of a building which contains living and sleeping accommodations for permanent occupancy. Residence, therefore, includes all one-family, multifamily, boarding, fraternity and sorority houses and mobile homes. However, residence shall not include the following:

- A. Transient accommodations, such as hotels, motels and hospitals; or
- B. That part of a building containing both residences and other uses which are used for nonresidential use, except accessory uses for residences.

**RESIDENT** — A person having a domicile or residence of a temporary or permanent nature within the limits of the Town of Rochester, Ulster County, New York.

**RESORT HOTEL, RESORT RANCH, RESORT LODGE** — An area of land on which is located a hotel or group of buildings containing living and sleeping accommodations hired

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<sup>13</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

out for compensation, which has a public lobby serving guests and contains one or more dining rooms and recreation facilities.

**RIDING ACADEMY** — Any establishment where horses are kept for riding, driving or stabling for compensation.

**RIGHT-OF-WAY** — Access to property by means of an easement.

**ROAD STAND** — A light structure or building with a roof, either attached to the ground or movable, intended for the sale of local produce to the general public.

**SETBACK** — The distance in feet as prescribed in the Density Control Schedule.<sup>14</sup>

**SIGN** — Any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing picture, banner, flag, insignia, device, marking or representation used as or which is in the nature of an announcement, direction or advertisement. Includes a billboard, neon tube, fluorescent tube or other artificial light or string of lights, outlining or hung upon any part of a building or lot for the purposes mentioned above, but does not include a flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, drive, movement or event which is temporary in nature.

**SIGN, ADVERTISING** — A sign which directs attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than on the premises and only incidental on the premises, if at all.

**SIGN AREA** — The area within the shortest lines that can be drawn around the outside perimeter of a sign, including all decorations and lights, but excluding the supports if they are not used for advertising purposes. All faces of the sign shall be counted in computing the area. Any neon tube, string of lights or similar device shall be deemed to have minimum dimensions of one foot.

**SIGN, DIRECTLY ILLUMINATED** — A sign which incorporates any artificial lighting as an inherent part or feature or which depends on transparent or translucent material or electricity or radioactivated or gaseous material or substance for its illumination.

**SIGN, FLASHING** — An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

**SIGN, ILLUMINATED** — A sign designed to give forth any artificial light or designated to reflect such light deriving from any source which is intended to cause such light or reflection.

**SIGN, INDIRECTLY ILLUMINATED** — A sign illuminated with an artificial light, which is separated from or is not an intrinsic part of the sign itself.

**SIGN, REPRESENTATIONAL** — Any three-dimensional sign which is built so as to physically represent the object advertised.

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<sup>14</sup> Editor's Note: The Density Control Schedule is located at the end of this chapter.

**SINGLE OWNERSHIP** — Possession of land under a single or united control, whether by sole, joint, common or other ownership or by a lease having a term of not less than 30 years, regardless of any division of such land into parcels for the purpose of financing.

**SOLAR ACCESS** — The provision for the accommodation of solar energy systems and equipment and access to unobstructed sunlight for both residences and businesses.<sup>12</sup>

**STORY** — That part of a building comprised between a floor and the floor or roof next above it. (Also, see “attic,” “basement” and “cellar.”)

**STORY, HALF** — That portion of a building situated above a full story and having at least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to ½ the floor-to-ceiling height of the story below.

**STREET** — An existing public way or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plat approved by the Planning Board and/or recorded in the office of the County Clerk.

**STREET WIDTH** — The width of the right-of-way or the distance between property lines on opposite sides of a street.

**STRUCTURE** — Anything constructed or erected which requires location on the ground or attachment to something having location on the ground including but not limited to buildings, fences, walls, stadiums, sheds, display stands, storage bins, signs, reviewing stands gasoline pumps and mobile dwellings (whether mobile or stationary at the time).<sup>13</sup>

**TRAILER, TRAVEL** — A vehicular portable structure which may be either towed or self-propelled, designed as a temporary dwelling for travel, recreational and vacation use.<sup>14</sup>

**TRAVEL TRAILER CAMP** — A parcel of land which is planned and improved as a commercial enterprise for the placement of two or more travel trailers which are used as temporary vacation living quarters for occupancy by any respective party in any particular travel trailer camp for no more than 180 consecutive days. This use includes camping resort. [Amended 8-5-1993 by L.L. No. 3-1993<sup>15</sup>]

**UNIT AREA** — For mobile home parks and travel trailer camps, the designated area or site allotted to each mobile home or travel trailer as delineated on the park or camp plan.<sup>16</sup>

**USE** — This term is employed in referring to:

- A. The purpose for which any buildings, other structures or land may be arranged, designed intended, maintained or occupied.

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<sup>12</sup> Editor's Note: Former definition for “substantial improvement” was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>13</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>14</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>15</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>16</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Any occupation, business activity or operation conducted (or intended to be conducted) in a building or other structures or on land.

VACATION RESIDENCE — A home or bungalow not serving as the primary residence for an individual(s) and/or family.

VARIANCE AREA — The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of this chapter.<sup>17</sup>

VARIANCE, USE — The authorization by the Zoning Board of Appeals for the use of land for a purpose which is not allowed by this chapter.<sup>18</sup>

WAY — A thoroughfare, however designated, permanently established for passage of persons or vehicles.

WINTERIZATION — The process of renovating a building so that it may be occupied on a year-round basis.

YARD, FRONT — A yard extending across the full width of the lot and lying between the front lot line of the lot and the nearest point of the building.

YARD, REAR — A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest point of the building.

YARD, REQUIRED — That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a depth or width as specified by the bulk regulations of a district in which the yard is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

YARD, SIDE — A yard situated between the building and the side line of a lot and extending from the front yard rear line (or from the front lot line, if there is no required front yard), to the rear yard front line (or rear lot line).

WORKSHOP — An establishment where the manufacture, assembly and/or repair of gifts, antiques and/or crafts is conducted on the premises by no more than five persons.<sup>19</sup>

### ARTICLE III Establishment of Districts.

#### § 140-6. Names of zoning districts. [Amended 6-3-1993 by L.L. No. 1-1993]

In order to fulfill the purpose of this chapter, the Town of Rochester establishes and hereby is divided into the following seven zoning districts:

HD: Hamlet Development

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<sup>17</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>18</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>19</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



- A: Residence – one family per one acre, average
- R-1: Residence – one family per one acre, average
- R-2: Residence – one family per one acre, average
- B: General Business
- I: Light Industrial
- F: Floodplain

#### **§ 140-7. Zoning Map.**

The location and boundaries of said zoning districts are shown on the map entitled “Zoning Map,” certified as adopted by the Town Clerk. Said map, together with everything shown thereon and all amendments thereto, is hereby adopted and is declared to be an appurtenant part of this chapter.

#### **§ 140-8. Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines or right-of-way lines of streets, highways, public utility easements and aqueducts or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a center line or right-of-way line of such street, highway, public utility, aqueduct or watercourse is moved a maximum distance of 50 feet.
- B. Where district boundaries are indicated as approximately following the town boundary line, property lines, lot lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- C. Where district boundaries are so indicated that they are approximately parallel to the town boundary line, property lines, lot lines, right-of-way lines or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.
- D. Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into a more restricted portion.
- E. In all other cases where not dimensioned, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.

#### **§ 140-9. Application of district regulations.**

Except as hereinafter provided:

- A. No land or building shall hereafter be used, occupied, erected, moved or altered unless in conformity with the regulations, hereinafter specified for the district in which it is located.

- B. No building shall hereafter be erected or altered which:
- (1) Exceeds the maximum height;
  - (2) Occupies a greater percentage of lot area;
  - (3) Accommodates or houses a greater number of families; or
  - (4) Has a narrower or small front yard, rear yard, side yard or other open space than is required or permitted for the district in which such building is located.
- C. No part of a yard or other open space required about any building shall be included as part of a yard or other open space similarly required for another building.
- D. No off-street parking or loading space required for one building or use shall be included as meeting, in whole or part, the off-street parking or loading space required for another building or use, except as provided in § 140-21.
- E. No off-street parking or loading space shall be so reduced in area that it does not meet the requirements of this chapter.

#### ARTICLE IV Use Regulations

##### **§ 140-10. Permitted uses; conditional uses.<sup>20</sup>**

No building or premises shall be erected, altered or used except for one or more of uses designated for any district as listed on the Schedule of Zoning Uses.<sup>21</sup>

##### **§ 140-11. Prohibited industrial uses.<sup>22</sup>**

In any district, no use or purpose that is noxious or offensive by reason of the emission of odor, dust, smoke, toxic or noisome fumes, radiation, gas, noise, vibration or excessive light or any combination of the above, which is dangerous and prejudicial to the public health, safety and general welfare shall be permitted, and this includes more specifically, but is not limited to, the following such uses:

Acetylene gas manufacture for commercial purposes  
Ammonia, chlorine or bleaching powder manufacture  
Arsenal  
Asphalt manufacture or refining  
Blast furnace, not including cupola or converter furnace used in foundries and in which no wood is used as fuel  
Boiler shops, structural steel fabricating shops, metal working shops, which operate reciprocating hammers or chisels or other noise-producing electric or pneumatic tools

<sup>20</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>21</sup> Editor's Note: The Schedule of Zoning Uses is located at the end of this chapter.

<sup>22</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

within 100 feet of any boundary line of the premises and outside of any masonry buildings

(Cont'd on page 14017)