

Bronze and aluminum powder manufacture
Carbon, lampblack, show blacking, graphite or stove polish manufacture
Celluloid and other cellulose products manufacture
Cement manufacture
Coal tar products manufacture
Creosote treatment or manufacture
Disinfectant and insecticide manufacture
Distillation of coal, wood or bones
Dump, unless operated or controlled by the municipality
Excelsior and fiber manufacture
Explosives, fireworks or match manufacture, assembling or storage in bulk, except the manufacture, assembling and storage in bulk of safety matches in book form
Fat rendering
Fertilizer manufacture or potash refining
Glue, size or gelatine manufacture or processing involving recovering from fish or animal offal
Incinerator, unless operated by the municipality
Industrial chemical waste dumps or dumping
Junkyard (nonautomobile)
Lime, gypsum, cement, plaster or plaster of paris manufacture, except the mixing of plaster
Linoleum or oil cloth manufacture
Nuclear power plant
Ore reduction or the smelting of iron, copper, tin, zinc or lead
Paint, oil, varnish, turpentine, shellac or enamel manufacture, except the mixing of wet paints
Perfume and extract manufacture
Petroleum refining
Poisons manufacture; fumigates, carbon disulfide, hydrocyanic acid, ethyl, stomach poisons, arsenate of lead, arsenate of calcium, hellabore and Paris green, contact insecticides, lime, sulphur, nicotine, kerosene emulsions printing ink manufacture
Radioactive waste dumps or dumping
Radium extraction
Rubber caoutchouc or gutta-percha manufacture from crude or scrap material, except in connection with a rubber products manufacture plant
Salt works
Sandpaper and emery cloth manufacture
Soap, soda ash or washing compound manufacture, except products not containing caustic soda
Starch, glucose or dextrine manufacture
Stockyards
Storage, coloring, curing, dressing or tanning of raw or green salted hides or skins
Sulphurous, sulfuric, nitric, picric or hydrochloric acid or other corrosive or offensive acid manufacture or their use or storage, except on a limited scale as an accessory to a permitted industry
Tallow, grease, lard or candle manufacture or refining
Tar distillation or the manufacture of aniline dyes

Tar roofing or waterproofing manufacture, except where the tar or asphalt is treated at a temperature under 100° F.
Tobacco processing, exclusive of cigar or cigarette manufacture
Vinegar, pickle or sauerkraut manufacture in bulk
Wool pulling or scouring, except in connection with a woolen mill
Yeast manufacture

ARTICLE V

Area and Bulk Regulations

§ 140-12. Purpose.

In order to provide adequate open spaces for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population and to lessen congestion on streets, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this article.

§ 140-13. Density control schedule.

The attached schedule of density control regulations is hereby adopted and declared to be a part of this chapter and is hereinafter referred to as the "Density Control Schedule."²⁶

§ 140-14. Corner lots.

Wherever a side or rear yard is adjacent to a street, the standards for front yards shall apply.

§ 140-15. Projections into required yards.

- A. The following projections into required yards may be permitted:
- (1) Open fire escapes: four feet into required side or rear yards.
 - (2) Awnings or movable canopies: six feet into any required yard.
 - (3) Cornices, eaves and other similar architectural features: three feet into any required yard.
- B. Porch or carport. Any open or enclosed porch or carport shall be considered a part of the building in the determination of the size of the required yard or lot coverage.
- C. Accessory uses. Accessory uses not enclosed in a building shall not be located in a required front or side yard but may be located in a required rear yard, subject to the provisions of § 140-20E.

²⁶ Editor's Note: The Density Control Schedule is located at the end of this chapter.

§ 140-16. Height exceptions.

District building height regulations shall not apply to flagpoles, radio or television antennas, transmission towers or cables, spires or cupolas, chimneys, elevators or stair bulkheads, parapets or railings, water tanks or cooling towers or any similar structures, provided that such structure in its aggregate coverage occupy no more than 10% of the roof area of the building. Barns and silos may exceed the height limitations of this chapter.

§ 140-17. Compliance with minimum lot area per dwelling unit requirement.

- A. Where two or more principal residential structures are permitted by this chapter to be located on the same lot, the minimum lot area per dwelling unit requirement and the minimum set back requirement must be complied with.
- B. A residential lot of required or larger than required size as set forth in this chapter shall not be reduced in size for transfer of ownership if such lot so subdivided will form two or more lots which shall not be in compliance with the requirements for the minimum lot area per dwelling unit for the district in which such lot or lots are situated, except as provided in § 140-28.

§ 140-18. Side yards for semidetached and attached dwellings.

Side yards for semidetached and attached dwellings shall be required at the ends of the total structure only.

§ 140-19. Distance between principal buildings on the same lot.

No detached principal building shall be closer to any other principal building on the same lot than the average heights of said buildings, but must also comply with the minimum setback requirements.

**ARTICLE VI
Supplementary Regulations**

§ 140-20. General provisions.**A. Home occupation. [Amended 9-3-1992 by L.L. No. 3-1992]**

- (1) Where permitted, nothing in this chapter shall prevent an individual from conducting his business, trade or profession in his home and/or in an accessory building thereto, provided that no more than two persons be employed in the home occupation(s) in addition to a maximum of five members of the family residing on the property; that no other person shall be permitted to share, let or sublet space for any business, trade or professional use; that there be no external evidence (visual or otherwise) of such use from the perimeter of the lot and from the roadway(s) adjoining the lot except for parking and loading and except for one sign not to exceed four square feet in an R-2

District and eight square feet in the R-1 and A Districts. Signage in the General Business District shall be as permitted in § 140-24 herein.

- (2) There may be, out-of-doors on each lot, a maximum of three vehicles which are actively being repaired, so long as these vehicles cannot be seen or heard from the perimeter of the lot and from the roadway(s) adjoining the lot. Junk vehicles or vehicles which are being used to supply parts to other vehicles shall not be parked out-of-doors on the lot. The conducting of a hospital, clinic, animal hospital, etc., shall not be deemed a home occupation.
 - (3) Off-street parking shall be provided for all residents, employees and customers in accordance with § 140-21 herein. Parking areas and access drives shall be located and designed so as to minimize disturbance to adjacent properties and shall be screened if necessary to accomplish this purpose. More than one home occupation may be conducted on a parcel, provided that the home occupations individually and jointly comply with the standards herein.
 - (4) Home occupations which are permitted by right shall be subject to the issuance of a zoning permit by the Code Enforcement Officer in accordance with § 140-53 of this chapter.
- B. Excavations. Any proposed excavation adversely affecting natural drainage or structural safety of adjoining buildings or lands shall be prohibited. Excavations shall not create any noxious or injurious substance or condition or cause public hazard. In any district, excavation relating to the construction on the same lot of a building or structure for which a building permit has been issued shall be permitted. In the event that construction of a building or structure is stopped prior to completion and the building permit is allowed to expire, the premises shall immediately be cleared of any rubbish or building materials, and any excavation with a depth greater than two feet below existing grade shall immediately be filled in and the topsoil replaced, or all such excavations shall be entirely surrounded by a substantial fence of at least six feet high that will effectively block access to the area in which the excavation is located and such fence shall be properly maintained (NOTE: For excavations for soil mining, See § 140-36I).
- C. Activity standards. In any district, the following standards of activities shall apply:
- (1) No offensive or objectionable vibration or glare shall be noticeable at or beyond the property line.
 - (2) No activity shall create a physical hazard by reason of fire, explosion, radiation or other such cause to persons or property in the same or adjacent district.
 - (3) There shall be no discharge of any liquid or solid waste into any stream or body of water or any public or private disposal system or into the ground of any materials that may contaminate any water supply, including groundwater supply.
 - (4) There shall be no storage of any material either indoors or outdoors in such a manner that it facilitates the breeding of vermin or endangers health in any way.
 - (5) The emission of smoke, fly ash or dust which can cause damage to the health of persons, animals or plant life or to other forms of property shall be prohibited.

- D. Planned new streets. After the planned right-of-way line for future streets, for future extensions of existing streets or for future street widening is established on the Official Map, if any, buildings and structures shall be set back from such line as though it were a street line.
- E. Accessory buildings and uses:
- (1) Accessory buildings not attached to the principal buildings shall be located no closer to the principal building than 12 feet or a distance equal to the height of each accessory building, whichever is greater.
 - (2) In a residential district, accessory uses not enclosed in a building, including swimming pools and tennis courts, may not be located in front yards of such lot and shall be distant not less than 20 feet from any lot line. No boat, trailer nor truck over one ton capacity shall be stored on any residential lot in any district, except in the rear yard and not closer than the required side yard setback to any lot line.
- F. Corner clearance. For the purpose of minimizing traffic hazards at street intersections, on any corner lot no obstructions between a height of 2½ feet and 10 feet above the adjacent center line elevation shall be permitted to be planted, placed, erected or maintained within the triangular area formed by the intersecting pavement lines or their projections, where corners are rounded and a straight line joining the pavement lines at points 50 feet distant from their point of intersection.
- G. Fences and walls. The requirements of this chapter shall not apply to necessary retaining walls, fences or walls not exceeding a height of six feet in any side or rear yard in an HD, R-1 or R-2 District and not exceeding a height of four feet in any front yard of an HD, R-1 or R-2 District except where corner sight distances are required for traffic safety. In any A, business or industrial district, there shall be no restriction on fences or walls, except on an HD, R-1 or R-2 District boundary line where such fences or walls shall be limited to eight feet in height and except where corner clearances are required.²³
- H. Commercial parking lots. Commercial parking lots shall comply with the provisions of § 140-21F, J and K.
- I. Transition requirement.
- (1) Where a lot in a business district or industrial district, or where a parcel of land is used for business or industry, abuts a lot in a residence district, there shall be provided along such side or rear lot line in the business or industrial district a wall, fence, compact evergreen hedge or a landscaped strip of trees or shrubs so designed as to form a visual screen not less than six feet in height at the time of planting, except for landscaped areas and parking areas, a use which is not conducted within a completely enclosed building shall be screened by a six-foot solid masonry wall, chain-link fence covered with an evergreen vine or compact evergreen hedge, unless said requirement is waived by the Zoning Board of Appeals after application and hearing.

²³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) Where a lot in an industrial district established as part of the floating industrial district abuts a lot in a residential district, such lot in the industrial district shall meet the requirements of sections.

J. Agriculture. [Amended 1-5-1989 by L.L. No. 1-1989; 6-3-1993 by L.L. No. 1-1993²⁴]

- (1) Shall include buildings and activities, except farms expressly for the disposal of fill and farms expressly for garbage disposal. The processing and storage of agriculture products, including packing, warehousing, and storing, is permitted, except that rendering and fertilizer plants are prohibited, pursuant to the provision of § 140-11. The unenclosed storage of manure or areas for storage of dead fowl or other odor or dust producing substance or use shall not be permitted within 100 feet of a property line or public street right-of-way. Buildings for the housing of fowl or farm animals shall not be located in the required front yard nor within 50 feet of a property line. Any buildings presently within the aforementioned 50 feet will be considered a prior nonconforming building as set forth under Article VIII of this chapter.
- (2) The keeping of customary household pets is permitted in any district. Household pets shall not include any of the animals set forth under Subsection J(4) and (5) of this section.
- (3) The keeping of farm animals for noncommercial purposes on all parcels of 3.1 acres or more is a permitted use and requires no permit.
- (4) The keeping of farm animals for noncommercial purposes on all parcels containing less than 3.1 acres is permitted in some combination of the list below, provided that a special use permit is obtained.
 - (a) No more than one horse per one acre of land.
 - (b) No more than one cow or other large farm animal per one acre of land.
 - (c) No more than eight sheep, goats, pigs or other medium-sized farm animals per acre of land.
 - (d) No more than 15 rabbits or other small farm animals (excluding fowl) per acre of land.
 - (e) No more than 50 fowl per acre of land.
- (5) In all cases, animals shall be adequately sheltered, fenced and otherwise maintained so as not to create a nuisance to surrounding properties and shall be maintained in a sanitary manner. For the keeping of cooped fowl for noncommercial purposes on residential and hamlet development parcels, the minimum area to be allotted is as follows:
 - (a) Small fowl such as chickens, two square feet per bird.
 - (b) Large fowl such as turkeys, four square feet per bird.

²⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (6) Densities higher than those listed above may be permitted by obtaining a special use permit from the Planning Board of the Town of Rochester.
- (7) Noncompliance of the above law shall be subject to a fine as set forth in § 140-59 for such violation. Parcels which are not in compliance with this chapter as of its effective date shall not be subject to a fine, provided that they reduce the amount of farm animals on said parcel through attrition to a point where they are in compliance with this chapter.
- (8) Notwithstanding the limitations set forth in this article, there shall be no permit required, nor limitation imposed, upon individuals involved in 4-H project(s), provided that proof of 4-H endorsement thereto or membership thereof is submitted to the Code Enforcement Officer.²⁵

§ 140-21. Off-street parking and loading regulations.

- A. In all districts, off-street automobile parking spaces and truck loading areas for the various permitted uses shall be required at the time any of the main building or structures of such uses are constructed or altered.
- B. Required minimum off-street automobile parking spaces. The minimum cumulative number of spaces shall be determined by the amount of dwelling units, bedrooms, floor area, members, equipment, employees and/or seats contained in such new buildings or structures or added by alteration of building or structures, and such minimum number of spaces shall be maintained by the owner of such buildings or structures.
- C. Specific minimum parking requirements:
 - (1) Office, business and commercial uses:
 - (a) For retail business or service, bank or post office: one space for each 200 square feet of customer floor area.
 - (b) For office, including professional, personal service, public utility: one space for each 200 square feet of gross office floor area.
 - (c) For restaurant, bar or nightclub: one space for each 50 square feet of customer floor area.
 - (d) For funeral home: one space for each five seats of chapel or chapels capacity.
 - (e) For any commercial use: one space for each company vehicle in addition to other required spaces.
 - (f) For hotel, motel and resort, resort lodge, resort ranch: one space for each bedroom plus one space for each four employees.

²⁵ Editor's Note: Former Section 5.1-11, Protection of town highways, as amended, was deleted and added as Ch. 104 at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) Spaces in municipal parking lots, designed to serve nongovernmental uses where provided, may be credited toward the parking requirements for these nonresidential uses, provided that:
 - (a) These spaces are within 400 feet of the uses to be served;
 - (b) The parking needs of existing facilities (within 400 feet and computed on the same basis as for new facilities) are satisfied first and only excess capacity is used for this purpose; and
 - (c) A special use permit for such use is obtained from the Planning Board.
[Amended 6-7-1984 by L.L. No. 4-1984]
- (3) Industrial uses:
 - (a) One space for each 400 square feet of floor area devoted to manufacture, including printing, publishing, wholesale business and laundry or dry-cleaning plants.
 - (b) One space for each 2,000 square feet of floor area devoted to storage.
 - (c) One space for each 3,000 square feet of area devoted to outside storage, including equipment rental or sales yards.
 - (d) For any industrial use, one space for each company vehicle in addition to other required spaces.
- (4) Public and semipublic use:
 - (a) For places of public assembly, including churches, theaters or concert halls, one space for each six seats of seating capacity.
 - (b) For elementary school or day nursery, two spaces for each classroom.
 - (c) For high school or college, five spaces for each classroom.
 - (d) For museum, art gallery, institution or philanthropic use, one space for each 800 square feet of gross floor area.
 - (e) For hospital, sanitarium, nursing or convalescent home, one space for each two beds.
 - (f) For club, one space for each 200 square feet of gross floor area or one space for each six seats, whichever is greater.
- (5) Recreational uses:
 - (a) For golf course, bowling alley, four spaces for each tee or alley.
 - (b) For skating rinks, one parking space for each 250 square feet of area available for skating.
- (6) Residential uses:
 - (a) For one- or two-family dwellings: one space per dwelling unit.
 - (b) For multifamily dwellings: 1½ spaces per dwelling unit.

- (c) Customary home occupation or professional office in a dwelling unit: one space for each 200 square feet devoted to such customary home occupation or professional office plus the required space per dwelling unit.
- (d) Boardinghouses and bed-and-breakfasts: one space for each bedroom.⁴
- (7) For uses not listed herein: as established by the Planning Board.⁵
- D. Calculation of required spaces. In the case of a combination of uses, the total requirements for off-street automobile parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit modification. Whenever a major fraction of a space is required, a full space shall be provided.
- E. Dimensions for off-street automobile parking spaces. Such space provided shall be at least nine feet wide and 20 feet long, and every space shall have direct and usable driveway access to a street or alley with minimum maneuver area between spaces as follows:
 - (1) Parallel curb parking: 25 feet end-to-end with twelve-foot aisle width for one-directional flow and a twenty-four-foot aisle width for two-directional flow.
 - (2) Thirty degree parking: a thirteen-foot aisle width for one-directional flow and a twenty-six-foot aisle width for two-directional flow.
 - (3) Forty-five degree parking: a sixteen-foot aisle width for one-directional flow and a twenty-six-foot aisle width for a two-directional flow.
 - (4) Sixty degree parking: a twenty-one-foot aisle width for two-directional flow.
 - (5) Perpendicular parking: a twenty-six-foot aisle width for one-directional and two-directional flow.
- F. Location of required spaces:
 - (1) In any residential district, no open or enclosed parking area shall encroach on any required front yard or required open areas. Open parking areas may encroach on a required side or rear yard to within three feet of a property line.
 - (2) In Hamlet Development Districts, business districts or industrial districts, parking spaces shall be provided on the same lot as the use for which the parking is provided or not more than 400 feet therefrom. **[Amended 6-3-1993 by L.L. No. 1-1993]**
 - (3) No entrance and exit drives connecting the parking area and the street shall be permitted within 25 feet of the intersection of two public rights-of-way.
- G. Required off-street truck loading areas:
 - (1) For funeral homes: one berth for each chapel.
 - (2) For hotels, motels and resort hotels, resort lodge, resort ranch: one berth for floor area in excess of 10,000 square feet.

⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁵ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (3) For office, business and commercial uses: one berth for 10,000 square feet to 25,000 square feet of floor area and one additional berth for each additional 25,000 square feet of floor area.
 - (4) For manufacturing and permitted industrial uses: one berth for the first 10,000 square feet of floor area and one additional berth for each additional 40,000 square feet of floor area.
 - (5) For other permitted nonresidential uses: one berth for 10,000 square feet to 25,000 square feet of floor area and one additional berth for each additional 25,000 square feet of floor area, unless it can be proven that truck deliveries shall not exceed one vehicle per day.
- H. Dimensions for off-street loading berths. Each required loading berth (open or enclosed) shall have the following minimum dimensions: 35 feet long, 12 feet wide and 14 feet high, except that berths for funeral homes may be 20 feet long, 10 feet wide and eight feet high.
- I. Location of required berths. All off-street loading areas shall be located on the same lot as the use for which they are permitted or required. Open off-street loading areas shall not encroach on any required front or side yard, access way or off-street parking area, except

(Cont'd on page 14027)

that in business districts off-street parking areas, where they exist, may be used for loading or unloading, provided that such spaces shall not be so used for more than three hours during the daily period that the establishment is open for business.

J. Construction of parking areas:

- (1) Parking areas shall be suitably drained.
- (2) Parking areas to be used at night shall be lighted when being used. All lights shall be shaded or so directed so as not to cause glare on adjoining residential properties and shall be so directed so as not to cause a traffic hazard due to glare or color.

K. Landscaping. At least 8% of the area of the lot usable for off-street parking shall be devoted to landscaping with lawn, trees, shrubs and other plant materials. All loading berths and parking areas of three or more spaces that abut a residential lot line and any parking lot for more than 20 cars shall be screened by a six-foot-high solid masonry wall or compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen from the adjoining property.

§ 140-22. Light Industrial District regulations. [Amended 6-3-1993 by L.L. No. 1-1993]

The Town Board may, in accordance with the procedure set forth in Subsection G of this section, approve the development of a parcel of land for light industrial use and establish a special Light Industrial District for such development to be imposed on any A, R-1, HD and B District subject to the following conditions:

A. Location and minimum required acreage of site:

A, R-1 Districts	10 acres
HD District	2 acres
B District	2 acres

B. Application of regulations. Individual uses and structures in a Light Industrial District need not comply with the specific building location, height, lot size and open space requirements of the underlying district. The "I" superimposes the regulations for a Light Industrial District upon the A, R-1, HD and B Districts. The use permit shall be limited to the one industry in accordance with the original application and permit. Any change of or additional industry shall comply with the permit requirements as required by this section.

C. Use regulations:

(1) Permitted uses:

- (a) Any use permitted by right in an I District.
- (b) Any use permitted by site plan or special permit in an I District, subject to the favorable approval thereof by the Planning Board.

(2) Prohibited uses:

- (a) Residential uses, except dwellings of caretakers and any and all residential uses existing and permitted prior to the establishment of such I District in accordance with this section, shall be allowed to continue as so permitted heretofore.

- (b) All prohibited industrial uses as so listed in § 140-11 of this chapter.
- (c) Any use, although expressly allowed as a permitted use shall be prohibited if the particular application of such use does not comply with the specified performance standards for a use in the I District.

D. Performance standards:

- (1) General standards. The following general standards are hereby adopted for the control of uses in any Light Industrial District, and no use shall be permitted, established, maintained or conducted therein which shall cause:
 - (a) Excessive smoke, fumes, odor, dust or any other atmospheric pollutant beyond the boundaries of the lot whereon such use is located. Smoke is excessive when the shade or appearance of such smoke is darker than No. 2 on the Ringlemann Smoke Chart, published by the United States Bureau of Mines.
 - (b) Noise, perceptible beyond the boundaries of the lot occupied by such use causing the same.
 - (c) Any pollution by discharge of any waste material whatsoever into any watercourse, open ditch or land surface.
 - (d) Discharge of any waste material whatsoever into any sanitary disposal system or sewerage system, except only in accordance with such rules and regulations of the public health authorities or the public body controlling such sewerage system. Any chemical or industrial waste which places undue loads as determined by the Town Engineer, if any, or the Ulster County Board of Health or the New York State Department of Environmental Conservation shall not be discharged into any municipal system and must be treated by the industrial user.
 - (e) Storage or stocking of any waste materials whatsoever, except in a completely enclosed building.
 - (f) Glare or vibration perceptible beyond the lot lines whereon such use is conducted.
 - (g) Hazard to person or property by reason of fire, explosion, radiation or other cause.
 - (h) Any other nuisance harmful to persons or property.
- (2) Specific standards. The following specific standards are hereby adopted and must be complied with, for and by any use in any Light Industrial District and before the same be permitted, established, maintained or conducted:
 - (a) Storage facilities. Materials, supplies or semifinished products shall be stored on the rear 1/2 of the property and shall be screened from any existing or proposed street.
 - (b) Loading docks. No loading docks shall be on any street frontage. Provisions for handling of all freight shall be on those sides of any building which do not face on any street or proposed streets.

- (c) Landscaping. It is hereby declared that all areas of the plot not occupied by buildings, parking, driveways or walkways or storage shall be landscaped attractively with lawn, trees, shrubs or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises and the nature and condition of the terrain as well as the situation of the lands and premises themselves and with regard to adjoining lands and premises.
 - (d) Fences and walls. Property that is adjacent to a residential or business district shall be provided along such property lines with a wall, fence, compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen not less than six feet high at the time of planting. Except for landscaped areas and parking areas, a use which is not conducted within a completely enclosed building shall be screened by a six-foot solid masonry wall, chain-link fence covered with evergreen vine or compact evergreen hedge. Where a front yard adjoins a street, the wall, fence or hedge shall be located no closer to the street than the depth of the required yard.
 - (e) Off-street parking and loading. Refer to § 140-21.
 - (f) Signs. Refer to § 140-24.
 - (g) Buffer strip. In addition to the fences and walls, the entire district must be separated along its outside boundary from any adjoining residential zones by a buffer strip, suitably landscaped, at least 100 feet wide.
- (3) Proper and adequate water supply, sewerage and waste disposal, other utility services and accessibility to and from public streets must be provided.
 - (4) Special consideration must be given to the traffic generated by each proposed use in a Light Industrial District, and no undue traffic volumes shall be permitted on residential streets. Such data is to be submitted with each petition for amendment.
- E. Area and bulk regulations. Area and bulk requirements shall be in compliance with those for I Districts as set forth in the Density Control Schedule³² for this chapter and as set forth in Article V.
 - F. The Planning Board, upon review of the proposed development, may prescribe such additional conditions as are in its opinion necessary to secure the objectives of this chapter.
 - G.³³ Procedure for establishing an I District. Application for rezoning classification of a site shall be filed by the owner(s) or the holder of a written contract or written option to purchase with the Town Clerk, in writing, in a form required by the Town Board, and shall be accompanied by a check or cash in an amount set from time to time by resolution of the Town Board.³⁴ The applicant shall also submit the following:
 - (1) A plan of the site and surrounding areas drawn to scale and accurately dimensioned, showing the location of existing and proposed land use areas, lots, buildings,

³² Editor's Note: The Density Control Schedule is located at the end of this chapter.

³³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

³⁴ Editor's Note: The fee schedule is on file in the town offices.

structures, parking and loading areas and access roads and streets, community facilities and topography.

- (2) The use and height of each proposed building or structure, yard lines, lot coverage and the number of parking spaces in each proposed parking area and the expected flow of traffic in and out of the area.
- (3) A copy of the currently effective Zoning Map, as established and provided for in Article III, showing the location of the proposed district superimposed on such map.
- (4) Any additional data as may be requested by the Planning Board in order to determine the suitability of the tract for the proposed development.
- (5) Each application shall be referred to the Planning Board. Said Board shall report its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations prior to the public hearing. If the Planning Board fails to report within a period of 45 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report.
- (6) The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:
 - (a) By publishing a notice of the application, time and place of the public hearing in a newspaper of general circulation in the town as designated by the Town Board not less than 10 days prior to the date of the public hearing.
 - (b) By giving notice of hearing to any required municipal, county, state or federal agency in the manner prescribed by law. Upon approval, such new district shall become a part of the regulations established herein, shall be enforced in the same manner and shall be similarly subject to amendment, except that if construction of the proposed development is not commenced within one year after approval by the Town Board and if an extension therefor has not been granted by the Town Board, such approval shall be deemed null and void, such area shall be subject to the requirements of the prior district regulations, and the Town Clerk shall change the Zoning Map accordingly. Further, if the approved kind of light industrial use ceases operation for any reason for a period of one year or more, such approval shall also be deemed null and void, such area shall be subject to the requirements of the prior district regulations and the Town Clerk shall change the Zoning Map accordingly. [Amended 6-3-1993 by L.L. No. 1-1993]
 - (c) Upon approval, the Town Clerk shall cause the Zoning Map to be changed by inserting thereon the boundaries of the new I District, noting the date of approval thereof by the Town Board.

§ 140-23. Gasoline filling stations.

- A. In districts where permitted, filling stations shall be permitted only on lots of one acre or more, with 100 feet minimum road frontage, except that on a preexisting undersized lot, it

shall be permitted on lot of 10,000 square feet or more with 100 feet minimum road frontage.

- B. The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard area.
- C. No fuel pump shall be located closer than 20 feet from any side lot line nor closer than 35 feet from any street line, measured from the outside edge of the fuel island.
- D. No access drive shall be within 200 feet of and on the same side of the street as a school, public library, theater, church or other public gathering place, park, playground or fire station unless a public street lies between such service station and such building or use.
- E. All repair work, except emergency repairs and all storage shall be within a completely enclosed building which has a maximum height of 30 feet. Such repair work shall not include any body repair work or spray painting.

§ 140-24. Sign regulations.

- A. No sign or other device for advertising purpose of any kind may be erected or established in the town except after issuance of a permit by the Code Enforcement Officer and provided as follows:
 - (1) Signs in A, R-1, R-2 and F Districts. No sign or other device for advertising purposes of any kind may be erected or established in any A, R-1, R-2 and F District except if pursuant to this chapter as follows:
 - (a) Permitted nonresidential uses and legal nonconforming, nonresidential uses, but not including home occupation or day nurseries, may display signs pertaining to the use of property, having an aggregate total face area of not more than 32 square feet and not projecting beyond the principal building of such use to which they are attached more than 24 inches, except that where such nonresidential uses are set back more than 50 feet from the property lines, one additional sign may be erected in the ground, provided that such ground sign shall not exceed 15 square feet in total face area, shall not exceed five feet in height and such sign shall be no nearer than 10 feet to any property line or road, whichever requires the greater set back. If such freestanding signs face substantially at right angles to the road and/or display in more than one direction, they shall have a face area of not more than eight square feet per side, with no more than two sides.
 - (b) Dwellings for five or more families, tourist homes, boardinghouse or rooming house and bed-and-breakfasts may display nonilluminated signs identifying the premises having an aggregate total face of not more than 12 square feet and not projecting beyond the principal building on the lot more than 24 inches.³⁵
 - (c) Any dwelling unit in a detached or attached structure may display one nameplate or professional sign not exceeding two square feet in area.

³⁵ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (d) Mobile home parks may display signs identifying the premises having an aggregate total face area of not more than 32 square feet.
 - (e) Resort hotels, resort lodges, resort ranches, camps, commercial recreation uses may display signs pertaining to the use of property, having an aggregate total face area of not more than one square foot for each two feet of lot frontage on a public street, but in no case need such sign area be less than 50 square feet, nor shall any individual sign area exceed 100 square feet. Such sign shall be set back at least 25 feet from any public street and property line. In addition, necessary traffic directional signs may be erected, provided that such signs do not exceed four square feet and building identification signs do not not exceed 10 square feet.
- B. Signs in Hamlet Development and Business Districts (except on state highways). The total surface display area of business signs shall not exceed in square feet one square foot per lineal foot of principal frontage of the lot, but not to exceed 50 square feet in area and not to exceed two in number. Said signs shall not project more than five feet beyond the principal building on the lot and there shall be no more than one projecting sign per business unit; provided, further, that such signs shall not extend more than 20 feet above the ground level or exceed the highest part of the building housing the business or service advertised, whichever is less restrictive. "Principal frontage" shall mean the frontage of the lot adjacent to the principal street in the case of a corner lot. Where a corner lot faces two principal business streets, only one such frontage shall be considered the principal frontage. In the case of a corner lot, such square foot sign area may be increased by an additional 0.5 square feet per lineal foot of frontage of the lot on the secondary street, but not to exceed 25 square feet, nor to exceed one sign in number, provided that such increased sign area shall be used only for the erection of a flat sign on the length of the building which faces the secondary street. **[Amended 6-3-1993 by L.L. No. 1-1993]**
- C. Signs on state highways in Business Districts and Light Industrial Districts. Two signs having an aggregate total face area of not more than 100 square feet may be displayed for each establishment, provided that such signs shall be located no nearer than 10 feet to any property line; and provided, further, that such signs shall not extend more than 20 feet above ground level or more than five feet above the height of the roof of a building at the point of location of the sign, whichever is less restrictive.
- D. Representational signs. No representational sign shall be permitted in any district.
- E. Advertising signs. Hereafter, notwithstanding any other provisions of this chapter, signs not pertaining to the use, sale, rent or lease of property on the same lot and signs not representing construction or subdivision activity as allowed are not permitted in any district, except that signs for the purpose of directing persons to a business or establishment may be erected in any district, provided that such signs shall not exceed 12 square feet in area per establishment in an A, R-1 or R-2 District and 32 square feet per establishment in a B or F District, shall conform with applicable regulations of the district in which they are located and shall be approved by the Planning Board.
- F. Projecting signs. Signs projecting into a public right-of-way shall have a clearance of not less than 10 feet above the sidewalk or surrounding ground and not less than 15 feet above any public right-of-way without written approval from the Planning Board.

- G. Subdivision signs. Any person offering lots for sale in a subdivision may erect nonilluminated, directional signs within the limits of the subdivision or adjoining property in the same ownership having an aggregate total face area of not more than 50 square feet. The permit for such signs shall be issued for a period of one year, each following a determination by the Code Enforcement Officer that the signs have been repainted or are in good condition in each case.
- H. Exemption from above regulations:
- (1) Real estate signs which advertise the sale, rental or lease of the premises upon which said signs are located, having an aggregate total face of not more than six square feet, within any residential district and business district, on one face and 12 feet on two faces or not more than 32 square feet within any Light Industrial District.
 - (2) One professional or business nameplate not exceeding one square foot in area for one professional or business establishment where such signs would not otherwise be permitted use.
 - (3) One sign denoting the architect, engineer and/or contractor when placed where work is under construction and not exceeding 24 square feet in area.
 - (4) Memorial signs or tablets, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material.
 - (5) Traffic or other municipal signs, legal notices and such temporary, emergency or nonadvertising signs as may be authorized by the Town Board.
 - (6) Posters. Temporary, nonpermanent posters covering such things as political events, sporting events, shows and elections shall not be displayed until four weeks prior to the event and must be removed within two weeks after the event.
- I. Illuminated signs. Illumination of signs shall not be of intermittent or varying intensity or produce glare beyond the limits of the side property line. Red, green and amber lights of such shape and hue that they may be confused with official traffic lights and signals shall be prohibited. All bare incandescent light sources and immediately adjacent reflecting surfaces shall be shielded from view.
- J. Banners. Banners and similar devices are prohibited, except nonpermanent ones displaying for the occasion of special events which shall be displayed for not longer than a three-week period.

§ 140-25. Mobile homes, mobile home parks, travel trailers and travel trailer camps.

- A. Single mobile homes are permitted in the town, subject to the requirements and restrictions set forth in Articles IV and V of this chapter for one-family dwellings and subject to all other restrictions and/or regulations for one-family dwellings in this chapter as well as other ordinances, local laws, rules or regulations set down by the Town of Rochester or any other governmental body.
- B. Notwithstanding any provision of this chapter, owners and/or lessees of property within the town, upon which mobile homes have been situated and established prior to August 10,

- 1983, shall retain such previous rights and prerequisites pertaining thereto, in the same manner as any other dwelling and including the right to substitute another mobile home in the place of the mobile home presently situated and established on said property subject to the limitations contained in Chapter 99, Mobile Homes.
- C. No single mobile home shall be erected as herein provided until a Zoning Permit and/or building permit has been issued pursuant to § 140-53 of this chapter, nor shall said mobile home be used or occupied until a certificate of compliance is issued pursuant to § 140-54 of this chapter. Said mobile home shall conform to all the residential requirements of the Density Control Schedule of this chapter³⁶ and to the standards contained in Chapter 99, Mobile Homes.
- D. Permit required. Any person, partnership, association or corporation, being the owner or occupant of any land within the town, shall not use or allow the use of such land for a mobile home park or travel trailer camp, unless a permit has been obtained as herein provided.
- E. Issuance of permit.
- (1) Before a mobile home park or travel trailer camp may be established, the Code Enforcement Officer shall issue a permit therefor. This permit shall be effective from the date of issuance to and including December 31 of that same year.
 - (2) This original permit shall not be issued until the Code Enforcement Officer has received:
 - (a) A written application from the applicant;
 - (b) The required fee as herein provided;
 - (c) Approval of the application by the Ulster County Department of Health (or the New York State Department of Health District Office); and
 - (d) A resolution from the Planning Board approving issuance of a special use permit for said mobile home park or travel trailer camp.
 - (3) Such permit shall not be transferable or assignable.
- F. Procedure for application for permit for mobile home park and/or travel trailer camp:
- (1) The application for such permit or renewal thereof shall be filed with the Code Enforcement Officer and shall be accompanied by a fee in an amount as established by the Town Board.³⁷ Said application shall include the name and address of the applicant, the nature and extent of his interest in the business for which a permit is desired and whether said applicant is the owner of the property and such a legal description of the premises upon which the mobile home park or travel trailer camp is or will be located as will readily identify and definitely locate the premises. (If the fee is vested in some person other than the applicant, a duly verified statement is required by that person stating that the applicant is authorized to construct or maintain the

³⁶ Editor's Note: The Density Control Schedule is located at the end of this chapter.

³⁷ Editor's Note: The fee schedule is on file in the town offices.

camp and to make said application.) The application shall also state the number of units in the existing or proposed mobile home park or travel trailer camp and such other information as may be required. If said application is for a new mobile home park or travel trailer camp or for the expansion of the same, an application for a special use permit must be made to the Planning Board in accordance with the procedures outlined in Article VII of this chapter.

(2) Permit renewal.

- (a) An application for the renewal of any mobile home park or travel trailer camp permit which was issued in accordance with the provisions of this chapter must be filed with the Code Enforcement Officer on or before December 1 preceding the expiration of the permit.
- (b) Upon the approval of the Code Enforcement Officer, a renewal permit shall be issued to be effective upon the expiration of the previous permit and to continue in force for a period of one year.
- (c) At the time the renewal permit is issued, the applicant shall pay a fee in an amount as established by the Town Board.
- (d) Such renewal permit shall not be transferable or assignable.

G. Application for preexisting mobile home parks. A mobile home park which is in existence prior to August 10, 1983, may continue in existence, provided that it complies completely to the standards and requirements of the Ulster County Department of Health. However, any additions, extensions or supplements to such preexisting park must be made pursuant to this chapter and all regulations hereof apply thereto.

H. Revocation of permit.

(1) Revocation of mobile home park and travel trailer camp permits:

- (a) If the Code Enforcement Officer finds and reports to the Town Board that a mobile home park or a travel trailer camp for which a permit has been issued is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this chapter, the Town Board shall, by resolution, authorize the personal service upon the holder of the permit a written order which will require the holder of said permit to correct the conditions specified in such order within 15 days after the service of such order.
- (b) If the holder of such permit shall refuse or fail to correct the condition or conditions specified in such order within 15 days after the personal service of such order, the Town Board shall, by resolution, revoke said permit, and the holder of the same shall thereupon terminate the operation of such mobile home park or travel trailer camp. In order to enforce the provisions of this section, all the provisions of Article X shall apply.
- (c) However, if the owner or operator of said mobile home park or travel trailer camp shall thereafter correct such conditions and bring the park or camp into compliance with this chapter, said owner may then apply for the issuance of a new permit for said park or camp, and, if the application is approved and a

permit is granted, the applicant shall pay to the Town Clerk the required fee without any credit for the fee paid for the permit which was revoked.

I. Exceptions. None of the provisions of this chapter shall be applicable to the following:

- (1) A mobile home or travel trailer located on the site of a construction project, survey project or other similar work project and which is used solely as a field office or work or toolhouse in connection with the project, provided that said mobile home or travel trailer is removed from the site within 30 days after the completion of said project.
- (2) The business of mobile home or travel trailer sales except that where units are used as living quarters, they shall conform with the provisions of this chapter.
- (3) The storage or garaging of one travel trailer not being used for living or sleeping purposes and unoccupied on premises occupied as the principal residence by the owner of such travel trailer; provided, however, that such unoccupied travel trailer shall be parked or stored to the rear of the front building line of the lot.
- (4) One additional mobile home on one lot if there is one vacant acre of land not offered for rent to the general public, on which parcel there is already one mobile home. Said additional mobile home, however, shall be occupied only by members of the immediate family of the owners and occupants of the first mobile home, and such family members shall be limited to mother, father, children, brother, sister, grandparents, mother-in-law or father-in-law after issuance of a special use permit by the Planning Board. Said special use permit shall expire when said mobile home is vacated by the original family member for whom the use was intended. An affidavit attesting to the occupancy of the two mobile homes must be submitted to the Code Enforcement Officer on an annual basis.²⁶

§ 140-26. Cemeteries and crematories.

No burial or memorial plots or buildings shall be located closer than 50 feet to any residential lot line, except that when a dense evergreen hedge or a wall or landscaped strip of at least six feet in height providing complete visual screening from all adjacent residential property is provided, burial or memorial plots less than six feet in height may be located no closer than 20 feet from any residential lot line. Crematories shall be located only in cemeteries.

§ 140-27. Sanitary disposal.

No person shall undertake to construct any new building(s) or structure(s), including mobile homes and travel trailers, in the town without first meeting the requirements for a system or facilities for the separate disposal of waterborne sewage, domestic or trade wastes in accordance with applicable regulations of the town, the Ulster County Department of Health, the Department of Environmental Conservation (DEC) and other governmental authorities. Any water-borne sewage shall be disposed of in accordance with the Ulster County Department of Health and the New York State Health Department regulations. Depending upon the facts and

²⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

circumstances in an individual case, the Planning Board or the Zoning Board of Appeals may require the owner or applicant to prepare an appropriate environmental impact statement (EIS), in accordance with the requirements for the same as set forth by the New York State Department of Environmental Conservation.

§ 140-28. Residential cluster development. [Amended 6-3-1993 by L.L. No. 1-1993]

A.²⁷ In order to promote the health and general welfare of the town, all lands located in HD, A, R-1 and R-2 Districts are designated lands for residential cluster development in accordance with § 278 of the Town Law. The Planning Board, pursuant to § 278 of the Town Law, may grant a developer the right to vary the residential density within a tract to be developed (but not necessarily maintained) under single ownership, leaving a substantial area free of building lots. The right to vary the density shall be subject to the following conditions:

- (1) Said proposed residential development must create an attractive residential environment;
- (2) Produce a total average density as specified in Article V for the district in which such development is to be located;
- (3) Provide aggregate open space to be no less than that required in the district in which it is located;
- (4) Guarantee permanent retention of open areas and ensure care and maintenance of open space;
- (5) Each lot must be served by a central water supply system and a public or community sewer system;
- (6) Development must start within one year of the date of approval and be completed within a reasonable time; and
- (7) It must be consistent to the spirit and intent of this chapter.

B. Single-family detached houses.

- (1) In the A, R-1 and R-2 Districts, single-family detached houses may be grouped in clusters on minimum lot areas per dwelling unit, minimum lot widths and minimum front yards as follows:

	Minimum Lot Size (sq. ft.)	Minimum Lot Width (feet)	Minimum Front Yard (feet)
A	30,000	100	60
R-1	20,000	100	40
R-2	20,000	100	40

²⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) All other yard requirements, maximum coverage and maximum height requirements as specified on the Density Control Schedule for the district in which said home is located shall be complied with. The clustering of single-family detached houses shall not be permitted in the HD District.
- C. Special design. In cases where a developer has designed special groups of dwellings, the Planning Board, upon application by the developer, containing a sketch of the layout and design, a description of the proposed development and such other data as the Planning Board considers necessary for its review, may approve a residential cluster development without regard to lot area or building type to the full extent permitted by § 281 of the Town Law; provided, however, that the sanitary systems are approved by the Ulster County Department of Health, that the average density does not exceed that permitted within the zoning district in which the land occurs and that the layout is not detrimental to the health and general welfare of the community. In all cases the provisions of Subsections D(2) through (6), inclusive, shall be complied with to the maximum extent practicable.
- D. Townhouse developments. In HD, R-1 and R-2 Districts, townhouses (attached one-family dwellings) shall be permitted, provided that there are not more than eight townhouse units in any one contiguous group; and, further, provided that the overall maximum density and maximum lot coverage for the district in which located shall not be exceeded. However, lot dimensions may be reduced as follows:
- (1) The minimum lot size shall not be less than 2,000 square feet and a minimum width of 20 feet; minimum rear yard, front yard and side yards at the end of the total structure shall be 25 feet.
 - (2) For each square foot of land gained within a residential subdivision through the reduction of lot size below the required minimum lot area per dwelling unit requirements as set forth in this chapter, equal amounts of land shall be preserved and maintained as open land and the development rights thereto shall be conveyed to the town for as long as these structures shall exist.
 - (3) The balance of the land not contained in the lots or the road right-of-way, if provided, shall be contiguous and of such size and shape as to be usable for recreation or agriculture.
 - (4) Such land shall be held in corporate ownership by the owners of lots within the development, and the developer shall incorporate into the deeds of all property within the development a clause giving the owners an interest in such open land which shall be used for recreational or agricultural purposes only. No structure, save those incidental to the recreational or agricultural use, shall be permitted thereon.
 - (5) Open land shall be a minimum of three acres and shall be subject to taxation, unless it is deeded to the town. In the case of such tracts of five or more acres, the developer may petition to the town to take over the land to be used in perpetuity as open space.

- (6) Any residential development proposed under the provision of this subsection shall follow all applicable procedures, standards and requirements of the local law or regulations governing the subdivision of land in the town.²⁸

§ 140-29. Accessory apartment within existing residential structures. [Added 10-18-1990 by L.L. No. 3-1990]

- A. A special use permit may be granted by the Planning Board of the Town of Rochester for the conversion of an existing one-family residence to provide for an accessory apartment, which said accessory apartment shall be defined as a self-contained dwelling unit having its own exterior entrance and which is subordinate to the principal residence but on the same lot.
- B. Conditions for approval.
- (1) There shall be no more than two dwelling units on a single parcel of land.
 - (2) The owner or owners of the land shall reside in one of the two dwelling units, which shall be their principal residence. Ownership shall be demonstrated by a deed recorded in the office of the County Clerk of the County of Ulster.
 - (3) The accessory apartment shall be self-contained, with separate cooking, sleeping and sanitary facilities for the use of its occupants.
 - (4) No exterior changes may be made to the principal residential structure which would alter its existing foundation.
 - (5) The occupant of the accessory apartment must be a member of the immediate family of the owner or owners or a person whose residence on the parcel of land is necessary or helpful for the provision of medical or health care services to one or more of the owners. For the purposes of this section, the term "immediate family" is defined as being a brother, brother-in-law, sister, sister-in-law, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter or daughter-in-law of the owner of the principal residence. For the purposes of the section, the need for medical or health care services may be demonstrated by a letter from a medical doctor bearing his or her original signature and address to the Planning Board of the Town of Rochester stating that in his or her opinion such on-site residence is necessary or helpful for the medical or health care of one or more of the owners.
 - (6) The accessory apartment shall not contain greater than 33% of the total habitable space of the existing structure prior to the occupancy of the accessory apartment, as that term is defined in Article 3, Part 711.1 of the New York State Uniform Fire Prevention and Building Code.
 - (7) There shall be no more than one accessory apartment on each principal residence or parcel of land.

²⁸ Editor's Note: Former Sections 5.10, Flood damage prevention; 5.11, Use of lands as dumps or dumping grounds, and 5.12, Unsafe building laws were deleted and added as Chs. 81, 118 and 66, respectively, at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Former Section 5.13, Automobile junkyard regulation, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I), and these uses are now regulated by § 140-36O of the Town Code.

- (8) The accessory apartment may not be used for a home occupation, as defined in § 140-20A of this chapter.
- (9) The accessory unit may not endanger the health, safety or general welfare of the community and must comply with all the requirements of the Uniform Fire Prevention and Building Code.

C. Approval procedures.

- (1) An application for approval of an accessory apartment pursuant to this section shall be made by applying for special use permit with the Planning Board of the Town of Rochester.
- (2) The Planning Board shall grant the application and issue the required special use permit only after determining that the issuance of the special use permit will not adversely effect adjoining property owners and the general surrounding neighborhood where the accessory apartment is proposed to be located.
- (3) The application shall include, in addition to any required fee, an approval of the on-site sanitary septic system, sewer disposal system, and/or water supply by the Ulster County Health Department.

D. Term of special permit use.

- (1) The use granted pursuant to this section of premises as an accessory apartment shall not commence until a certificate of occupancy has been issued by the Building Inspector of the Town of Rochester.
- (2) The special permit use shall be granted for a period of two years and may be renewed for every two years thereafter upon reapplication to the Planning Board. Such reapplication may be made by a sworn affidavit of the owners stating that the conditions set forth in the original application have not changed or, in the alternative, may be based upon an inspection or reinspection of the premises by a Code Enforcement Officer of the Town of Rochester.
- (3) The special use permit shall terminate upon the death of all of the owners of the subject real property, upon the transfer of title to the subject property or upon the termination of occupancy of the subject real property by all of the owners as their primary residence. A special use permit issued under this section shall not be transferable to any other person. However, any new owner may make application for such a special use permit under this section and, upon demonstration of compliance with the conditions set forth herein, obtain such a special use permit for a two-year period, subject to renewal as provided herein.
- (4) If the owner or occupant fails to comply with the conditions set forth in this section, as determined by the Building Inspector or Code Enforcement Officer, the Building Inspector or Code Enforcement Officer shall issue a notice of termination to the owner, occupant and to the Planning Board, and, upon receipt of such notice, the Planning Board shall immediately revoke the special use permit, and, upon such revocation, the accessory apartment created pursuant to this section shall be discontinued.

E. Enforcement.

- (1) Any occupancy or use of premises in violation of this section, without a special use permit or following the expiration or revocation of the special use permit as provided herein, shall be deemed a violation of the Zoning and Land Use Control Law and shall subject the owner and/or the occupant to the penalties provided for such violations, at the election of the Code Enforcement Officer and/or Building Inspector.
- (2) Nothing contained herein shall prevent the Code Enforcement Officer and/or Building Inspector from assessing any other fine, penalty, notice or violation otherwise provided by the laws and ordinances of the Town of Rochester.

§ 140-30. Hamlet Development District Regulations. [Added 6-3-1993 by L.L. No. 1-1993]

- A. In the Hamlet Development District, water supply and sewage disposal facilities shall be subject to the approval of the Ulster County Department of Health for all:
- (1) New construction;
 - (2) Conversions of single-family dwellings to two or more family dwellings;
 - (3) Conversions from residential to nonresidential uses; and
 - (4) Conversions from nonresidential to residential uses.
- B. Where a nonresidential use abuts a residential use in the Hamlet Development District, there shall be provided along the abutting side and rear lot lines of the nonresidential use, a wall, fence, compact evergreen hedge, trees and/or shrubs which form a visual screen not less than six feet in height at the time of construction/planting. Further, any accessory nonresidential use, including parking and outdoor display or storage which abuts a residential use, shall also be screened in accordance with the above requirements of this section.

ARTICLE VII

Conditional Uses Allowed By Special Use Permit
[Amended 6-7-1984 by L.L. No. 4-1984]

§ 140-31. General provisions.

Conditional uses are hereby declared to possess characteristics which require that each specific use shall be considered an individual use. Any use for which a special use permit is granted by the Planning Board shall be deemed a use permitted in the district in which located, except that for any addition or enlargement of such use, a separate special use permit shall be required for each addition or enlargement. A conditional use must be in conformity with the provisions of this law and shall affect only the lot or portion thereof for which it shall have been granted.²⁹

²⁹ Editor's Note: Former Section 6.1(b) and (c), regarding permits for change of ownership, were repealed 6-3-1993 by L.L. No. 1-1993.

§ 140-32. Special use permits.

- A. The Planning Board shall have the power, after public notice and hearing, to grant special use permits for the conditional uses specified in this chapter. In addition, the Planning Board may establish such rules and regulations for the granting of a special use permit as it may be authorized to establish accordance with Town Law.
- B. All applications for special use permits shall be filed with the Secretary to the Planning Board, in writing, shall be made in a form required by said Board and shall be accompanied by payment of a filing fee set from time to time by resolution of the Town Board³⁰ and 10 copies of a site plan drawn to scale and accurately dimensioned, as required in § 140-33.³¹
- C. Whenever the Planning Board grants a special use permit, appropriate conditions and safeguards and/or time limitations may be attached thereto.
- D. Any special use permit which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Planning Board, unless said permit specifically provides otherwise.

§ 140-33. Procedure.

In addition to the provisions of this article, the procedure to be followed by the Planning Board in issuing a special use permit shall be the same procedures as set forth in §§ 140-47, 140-48, 140-49 and 140-50.³²

§ 140-34. Required plan.³³

A plan for the proposed development of a site for a permitted conditional use shall be submitted with the application for a special use permit, and such plans shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed special permit use meets the requirements of this chapter.

§ 140-35. Basis for deliberation.

Before issuing a special use permit, the Planning Board shall take into consideration the public health, safety, morals and welfare and shall assure itself of the following:

- A. That there shall not be any detrimental effect by the establishment of such use on other uses within the district.

³⁰ Editor's Note: The fee schedule is on file in the town offices.

³¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

³² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

³³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. That such use will be in harmony with the orderly development of the district and the location, nature and height of buildings, walls, fences and parking areas will not discourage the appropriate development and use of adjacent lands.
- C. That all structures, equipment and materials shall be reasonably accessible for fire and police protection.
- D. That the use meets the prescribed requirements for the district in which located, including minimum yard requirements for the district in which located or as further specified in this

(Cont'd on page 14043)

section and including maximum heights, required off-street parking and sign regulations and the following prescribed provisions.

§ 140-36. Prescribed standards.

In addition to the above general provisions, the following shall comply with the hereinafter prescribed standards:

A. Retail sale of produce grown on the same lot from a road stand:

- (1) At least five off-street parking spaces shall be provided.
- (2) Ingress to and egress from such use shall be so arranged to provide minimum interference with through traffic on the street or highway.
- (3) Any lights in connection with such use shall be so arranged as not to cause glare on adjacent properties.
- (4) Three signs not exceeding an aggregate of 50 square feet may be displayed for each establishment, provided that such sign shall be located no closer than 10 feet to any property line; and provided, further, that such signs shall not extend more than 10 feet above the ground or if attached to the building shall not extend more than five feet above the height of the roof of the building at the point of location of the sign.

B. Hospital, nursing home, convalescent home, sanitarium, institution or philanthropic use:

- (1) The total building area shall not exceed a lot coverage of 30%.
- (2) Primary access to such use shall not be a minor street or any other street serving primarily as access to abutting residential properties.
- (3) Off-street parking areas, outdoor storage areas shall be screened from adjacent residential properties. Any lighting shall be so arranged as not to cause glare on adjacent properties.
- (4) No building shall be located within 100 feet of any lot line, nor within 50 feet of any street right-of-way line.

C. Hotel, resort hotel, resort lodge, resort ranch, restaurant, bar or night club, skating rink, theater, concert hall, commercial recreation uses:

- (1) Primary access to such use shall not be a minor street or any other street serving primarily as access to abutting residential properties, but shall be by means of a street in the collector, arterial, state highway or county road system or other street in which, in the opinion of the Planning Board, the traffic generated by said use will not adversely affect existing or potential development in the area.
- (2) Such use meets the off-street parking requirements of this law. Such off-street parking and lighting in connection with such use shall be screened and shielded from adjacent residential properties.
- (3) No building shall be located closer than 100 feet to any lot line nor within 50 feet of a street right-of-way line.

- (4) Buildings and structures may exceed the maximum building height as specified on the density control schedule, provided that for each one foot such building or structure exceeds 35 feet in height the required building setback from property lines as specified in Subsection C(3) above shall be increased by one foot.

D. Camps:

- (1) The water supply and sewage disposal systems shall comply with the codes, ordinances and regulations of the appropriate authorities.
- (2) No structure shall be located within 100 feet of a side or rear property line nor within 50 feet of a street right-of-way line.
- (3) One off-street parking space shall be provided for each five persons of capacity, and one additional space shall be provided for each two employees.
- (4) A swimming pool or other recreational activity shall not be located closer than 100 feet to a side or rear property line nor within the required front yard.
- (5) Winterization of any camp building previously unwinterized shall be considered a change of use requiring a special use permit from the Planning Board.

E. Two-family dwelling, multifamily dwelling, boardinghouse.

- (1) A two-family dwelling and multifamily dwelling shall comply with minimum lot area per dwelling unit requirement for the district in which it is located. A boardinghouse shall not contain more than six rentable units in addition to a dwelling unit.
- (2) There shall be off-street parking provided on the same lot with the principal use at least equal to the minimum requirements specified by this chapter. Off-street parking accessory to a multifamily dwelling shall not be located in a front yard or side yard abutting a street and shall be screened from adjacent properties.
- (3) There shall be a finding that the water supply and sewage disposal system shall be adequate to serve the use.
- (4) The primary access to a multifamily dwelling shall not be a minor street serving primarily as access to single-family residential units, but shall be by means of a collector street, arterial street, county road or state highway or other street on which, in the opinion of the Planning Board, the traffic generated by such multifamily dwelling will not adversely affect existing or potential development in the area.
- (5) Two-family dwellings, multifamily dwellings and boardinghouses shall meet the minimum specified front yard, side yard, rear yard, coverage and maximum height requirements specified on the density control schedule for the district in which located.
- (6) Signs accessory to a multifamily dwelling shall comply with the regulations of § 140-24.

F. Airport and flying fields. In addition to the standards specified in the basis for deliberation section, there shall be a finding that such airport or flying field shall not cause a hazard to or be detrimental to nearby properties and buildings, both in town and adjacent

municipalities considering the location of buildings accessory to the airport or flying field, approach and takeoff patterns and lights.

G. Electric or gas utility substations, transformer stations, water or sewage pumping stations and other similar structures:

- (1) Such use is reasonably necessary for the service, convenience or welfare of the public and can not be located in another district;
- (2) Such use has adequate fences and other safety devices and adequate screening or landscaping; and
- (3) Such use will not alter or be detrimental to the character of the neighborhood.

H. Mobile home parks and travel trailer camps.⁴⁴

- (1) Application requirements. The mobile home park or travel trailer camp plan shall be drawn to scale on a survey map prepared by a civil engineer or land surveyor duly licensed by the State of New York and shall show the following:

(a) Legal data.

- [1] The name and address of the applicant (or the name and address of each partner if the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation).
- [2] The location and description of the land that is proposed to be used as a camp or park.
- [3] The existing zoning of the site.

(b) Physical features.

- [1] Topographic contours at two-foot intervals.
- [2] The location of watercourses, marshes and areas subject to flooding.
- [3] The location of wooded areas.

(c) Existing development.

- [1] A location map which shows all land within 200 feet of the proposed park or camp and all structures on the land which abuts the proposed park or camp.
- [2] The location, names and widths of all adjacent streets.
- [3] The location of all water lines and utilities within and adjacent to the proposed site.

(d) Proposed development.

- [1] The location and widths of all entrances, exits, streets and walkways.

⁴⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- [2] The number, location, size and arrangement of all proposed unit areas within the park or camp.
 - [3] The method and plan for electric lighting.
 - [4] The location and plan of all proposed structures and improvements.
 - [5] The proposed grading and plans for landscaping.
 - [6] The proposed stormwater management system.
 - [7] The proposed utilities.
 - [8] Any public improvements proposed by the town in or adjoining the proposed site.
 - [9] Any proposed zoning.
- (2) Site.
- (a) The park or camp shall be located on a well-drained site in an area where grades and soil conditions are suitable for the use of the same.
 - (b) The park or camp shall be free from heavy or dense growth of brush or woods in occupied areas, except where used for screening purposes.
 - (c) The park or camp shall be at least five acres in size, shall have 150 feet of frontage on a public road in a residential area and have 60 feet of frontage on a public road in a nonresidential area.
- (3) Unit areas.
- (a) Each park or camp site shall be marked off into unit areas.
 - (b) Each mobile home park unit area shall have a total area of not less than 10,000 square feet with no less than 60 feet of frontage on a right-of-way in the park.
 - (c) Each travel trailer camp unit area, designated for overnight camping, shall have a total area of not less than 1,500 square feet with no less than 30 feet of frontage on a right-of-way in the camp. Each travel trailer camp unit area, designated for long-term camping, shall have a total area of not less than 2,400 square feet with no less than 40 feet of frontage on a right-of-way in the camp.
 - (d) The total number of unit areas in a mobile home park shall not exceed one for each acre in said park.
 - (e) The total number of unit areas in a travel trailer camp shall not exceed eight for each acre in said camp.
- (4) Clearances.
- (a) Mobile homes and travel trailers shall not be located nearer than a distance of:
 - (1) At least 20 feet from an adjacent structure in any direction;
 - (2) At least 50 feet from an adjacent property line;

- (3) At least 50 feet from the right-of-way line of a public road; and
 - (4) At least 20 feet from the nearest edge of any roadway within the park or camp.
 - (b) Only one mobile home or travel trailer shall be permitted to occupy each designated unit area.
 - (c) In computing these clearances, additions or accessory structures attached to the trailer or mobile home, but not including temporary porches or canopies which are open on two or more sides, shall be considered part of the mobile home or travel trailer.
- (5) Construction standards. All mobile homes and mobile home stands shall comply with the requirements of Chapter 99, Mobile Homes.
- (6) Accessibility.
- (a) Where a park or camp has more than 24 travel trailers or mobile homes, at least two but no more than four points of entry and exit shall be provided as follows:
 - (1) Such entrances and exits shall be designed and strategically located for safe and convenient movement into and out of the park and to minimize conflict with the free movement of traffic on a public highway or street.
 - (2) All entrances and exits shall be at right angles to the existing public highway or street.
 - (3) All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway or street.
 - (4) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with mobile homes or travel trailers attached.
 - (b) Interior streets. Each park or camp shall have its streets provided with a smooth, hard surface which shall be durable and well-drained under normal use and weather conditions to provide for the convenient accessibility to all unit areas and other important facilities within the park or camp, and further:
 - (1) The street system shall be so designed to permit the safe and convenient vehicular circulation within the park or camp, shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety.
 - (2) Streets within mobile home parks shall be improved to town specifications;
- (7) Utilities and service facilities required for mobile home parks.
- (a) The following utilities and service facilities shall be provided in each mobile home park which shall be in accordance with the regulations and requirements of the Ulster County Department of Health, the New York State (NYS) Department of Health and the Sanitary Code of New York State and the New York State Department of Environmental Conservation:

- (1) An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all lots and buildings within the park to meet the requirements of the park.
 - (2) Each unit area shall be provided with a sewer connection to receive the waste from the shower, tub, flush toilet, lavatory and kitchen sink in the mobile home. Sewer connections in unoccupied lots shall be so sealed to prevent the emission of any odors and prevent any health hazards.
 - (3) Garbage cans with tight-fitting covers shall be provided and maintained by each mobile home occupant to permit the disposal of all garbage and rubbish. The can shall be kept in a sanitary condition at all times. Garbage and rubbish shall be collected by the park owner.
- (b) Each mobile home unit area shall be provided with weatherproof electric service connections and outlets which are a type approved by the New York State Board of Fire Underwriters.
- (8) Utilities and service facilities for travel trailer camps. Utilities and service facilities shall be provided in each travel trailer camp which shall be in accordance with the regulations of the Ulster County Department of Health, the New York State Department of Health and the Sanitary Code of New York State as they pertain to campgrounds and travel trailer camps.
- (9) Open space.
 - (a) Common open space shall be provided within a mobile home park or travel trailer camp for use by the occupants of the same.
 - (b) Such open space shall be conveniently located in the park or camp and shall have a total area equal to at least 20% of the gross land area of the park or camp.
 - (c) Areas required for landscaped strips along public roads and property lines shall not be counted towards this open space requirement.
- (10) Landscaping.
 - (a) Areas of mobile home parks and travel trailer camps, not used for the placement of structures, walkways or roads or cleared for recreational facilities, shall be landscaped or shall remain wooded and/or otherwise unimproved to preserve the rural atmosphere and aesthetic characteristics of the Town of Rochester.
 - (b) Landscaping shall be provided to the extent necessary for the purpose of screening nonresidential structures or uses within the park or camp and to provide shade and suitable settings for the dwellings and other facilities within the park or camp.
 - (c) A landscaped strip at least 50 feet in width shall be provided along those areas within the park or camp which front upon existing public streets and along the property lines of the park or camp.
- (11) Park and camp records.