

- (a) The owner or operator of each mobile home park or travel trailer camp shall keep a written record of all persons occupying or using the facilities of such park or camp. This record shall be available for a period of at least one year from the date of occupancy and shall include:
  - (1) The name and mailing address of the occupant of each mobile home or travel trailer; and
  - (2) The name and address of the owner of each mobile home or travel trailer which is not occupied by such owner.
- (b) In travel trailer camps, the following additional information shall be maintained in the annual camp records:
  - (1) The state in which each travel trailer within the camp is registered and the registration number of the same; or
  - (2) The name and address of the owner of the motor vehicle which transported said travel trailer and the state in which said motor vehicle is registered and the registration number of the same.
- (12) Automobile parking.
  - (a) At least one parking space shall be provided for each travel trailer or mobile home within the designated unit area for the trailer or mobile home or within 50 feet of the same.
  - (b) Off-street parking spaces shall be provided within the common areas of the camp or park at places of public congregation in the total amount of one space per five travel trailers or mobile homes within the camp or park.
  - (c) Each off-street parking space and the parking areas shall conform to the standards specified in § 140-21 of this chapter.
- (13) Combined mobile home parks and travel trailer camps. A travel trailer camp and a mobile home park may be combined on the same legal parcel of land, provided that the following requirements are met:
  - (a) The travel trailer camp and mobile home park shall have physically separate locations on the same parcel and shall be separated by a landscaped buffer which is at least 50 feet in width and which shall adequately screen the travel trailer camp use from the mobile home park.
  - (b) At least five acres of land shall be apportioned for each use.
  - (c) Each respective use shall comply with the requirements outlined in this chapter for that particular use.
  - (d) Where practicable, that portion of the land to be used as a travel trailer camp shall be located adjacent to a public road. Where the parcel of land fronts on two or more existing public roads, the travel trailer camp shall be located adjacent to the more heavily traveled road.

- (e) Where practicable, the travel trailer camp and the mobile home park shall each have separate points of entry and exit.
  - (14) Permit renewal. The permit renewal provisions of § 140-25 of this chapter shall apply to all mobile home parks and travel trailer camps established by special use permit pursuant to this section.
  - (15) Performance bond. The Planning Board may require a performance bond from the applicant in an amount to be determined by said Board to ensure that the requirements of this chapter are met. If the Planning Board so directs, this performance bond shall become an additional requirement for the issuance of a permit to the travel trailer camp or mobile home park.
- I. Excavation for soil mining. Excavation for the purposes of soil mining, such as gravel pits, quarrying or any subsoil removal, shall be allowed only by special permit in Zones A, R-1, I and F, subject to § 140-20B of this chapter and the following provisions. Notwithstanding and regardless of whether a special permit has been issued, property owners may utilize gravel, stone quarrying or subsoil excavation on their own property for fill or leveling without restriction. **[Amended 8-5-1993 by L.L. No. 2-1993<sup>34</sup>]**
- (1) For soil mining operations that are not subject to state jurisdiction by virtue of involving the removal of 1,000 tons or less per year, the following provisions shall apply:
    - (a) Before a special permit is issued, the applicant shall submit to the Planning Board 10 copies of a map at a scale of one inch equals no more than 100 feet, showing all lands within 200 feet thereof with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of the land owners. Such map shall also show the present topography at two-foot contour intervals or as otherwise determined appropriate by the Planning Board. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy.
    - (b) The applicant shall also submit to the Planning Board 10 copies of the proposed plan of excavation at the same scale as above, showing the proposed finished elevations at two-foot contour intervals, or as otherwise determined appropriate by the Planning Board, and the proposed drainage plan.
    - (c) During excavation or quarry operations, open pits and quarry walls shall be entirely surrounded by a substantial temporary movable fence at least six feet high located no less than 50 feet from the mine excavation in order to safeguard the public and to prevent an attractive nuisance. Such fence is to be erected so as to effectively block access to the area, with suitable gates provided with locks. Top and/or toe of slope shall not be closer than 40 feet to a property line.
    - (d) The Planning Board may require the applicant to submit a screening and buffer plan to minimize visual impacts on surrounding properties or adjacent roadways. Such plan shall identify the location, height, type and other appropriate details of

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<sup>34</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

all proposed perimeter fencing, berming, landscaping or other screening and buffering measures.

- (e) Excavation, quarrying and mining operations may be conducted between the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, and between 8:00 a.m. to 12:00 noon on Saturday, and shall not be conducted on Sunday nor on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.
- (f) Rock crushing, cement plant or other crushing, grinding, polishing or cutting machinery or other physical or chemical process for treating the product of such excavation shall be permitted, subject to compliance with the following conditions:
  - [1] The subject activity shall take place only on the same site as and in association with an excavation for soil mining operation. Further, the requirements of § 140-36I shall apply to the subject activity.
  - [2] The subject activity shall function only between the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, except that the Planning Board may, at its discretion, expand these hours of operation based upon a showing by the applicant that the subject activities will not result in adverse noise, lighting and traffic impacts during the expanded hours of operation due to the size of the property, the process and the machinery to be utilized.
  - [3] The subject activity shall function only during Monday through Friday and shall not be conducted on Saturday, Sunday or on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.
  - [4] The subject activity shall only be permitted on a lot which is 10 or more acres in size.
  - [5] Materials associated with the proposed activity shall be located as far away from the perimeter property lines of the site as, in the Planning Board's judgment, is practical.
  - [6] The subject activity shall not be located closer than 200 feet to any perimeter property line of the site.
  - [7] Ingress to and egress from the property on which the subject activity is located shall be arranged so as to provide minimum interference with off-site traffic.
  - [8] The subject activity shall comply with the activity standards in § 140-20C herein, which standards apply to all uses in all zoning districts of the town.
  - [9] The subject activity shall not create any conditions which are injurious or hazardous to the public.
  - [10] The proposed activity shall be such that it will not be detrimental to the character of the surrounding neighborhood.

- (g) The proposed finished grading plan shall show the land to be smooth-graded and topsoil respread to a minimum depth of four inches; slopes shall not exceed the normal angle of repose of the material removed.
  - (h) The applicant shall be required to furnish a performance bond, in an amount determined by the Code Enforcement Officer, to be sufficient to guarantee completion of the finished grading and drainage plan. Such bond shall be released only upon certification by the Code Enforcement Officer that all requirements, including the finished grading and drainage, have been complied with.
  - (i) No special permit for excavation operations or soil mining shall be granted for a period of more than three years, but such permit may be extended for additional two-year periods, upon approval of the Planning Board.
  - (j) These requirements shall be in addition to any of the requirements of the Mined Land Reclamation Act of the State of New York and the rules and regulations applicable thereto. Where any of the provisions of this chapter are in conflict with said Mined Land Reclamation Act, the more restrictive provision shall apply.
- (2) Operations subject to state jurisdiction; issuance of special permits.
- (a) For soil mining operations that are subject to state jurisdiction by virtue of involving the removal of more than 1,000 tons per year, the Planning Board shall, at its discretion, place conditions on its issuance of special permits relating to:
    - [1] Ingress and egress to town-owned roads.
    - [2] The routing of transport vehicles on town-owned roads.
    - [3] Continued compliance with New York State Department of Environmental Conservation (NYSDEC) permit conditions relating to:
      - [a] Setbacks from property lines and road rights-of-way;
      - [b] Barriers to restrict property access;
      - [c] Dust control; and
      - [d] Hours of operation.
    - [4] Enforcement of New York State Department of Environmental Conservation reclamation special conditions.
  - (b) The length of the special permit shall be coterminous with the length of any permit issued by the NYSDEC. Suspension or revocation of any permit issued by the NYSDEC shall also suspend or revoke the Planning Board's special permit as appropriate.
  - (c) In addition, upon receipt of a notice from the NYSDEC of an application for a permit to mine in excess of 1,000 tons per year, such notice shall be referred to the Town Planning Board who shall conduct public hearing(s), concurrent with

or separate from its special permit proceedings, to make determinations and recommendations to the NYSDEC for incorporation in such mining permit with regard to:

- [1] Setbacks from property lines and road rights-of-way;
- [2] Barriers designed to restrict access;
- [3] Dust control;
- [4] Hours of operation; and
- [5] Whether mining is prohibited by zoning at the location.

(d) Except for Subsection I(2)(c)[5] immediately above, the NYSDEC can accept or reject the Planning Board's determinations.

- (3) Upon approval by the Planning Board, one copy of the approved excavation plan shall be returned to the applicant by said Board, and in the case of permits also approved by the NYSDEC, one copy shall also be sent to the appropriate NYSDEC regional office.

J. Gasoline filling stations. In addition to complying with the provisions of § 140-34, gasoline filling stations shall comply with the provisions of § 140-23.

K. Commercial parking lots. In addition to complying with the provisions of § 140-34, commercial parking lots shall comply with the provisions of § 140-20H.

L. Bungalow colony:

- (1) The water supply and sewage disposal systems shall comply with the codes, ordinances and regulations of the appropriate authorities.
- (2) The land area per rental unit shall be at least 10,000 square feet.
- (3) The space between detached rental units shall be not less than 20 feet or the average height of adjacent buildings, whichever is greater.
- (4) No building shall be located within 50 feet of a street right-of-way line, nor within 50 feet of a side or rear property line.
- (5) Off-street parking shall be provided in an amount not less than one space for each rental unit, plus not less than one space for each two employees. Off-street parking shall not be located in the required front yard, nor within 20 feet of a side or rear property line.
- (6) A swimming pool or other recreational activity shall not be located closer than 50 feet to any side or rear property line and shall not be located in a required front yard and shall be screened by a stand of trees, fence, hedge or wall from view of adjacent properties to the sides and rear.
- (7) Winterization of any bungalow previously unwinterized shall be considered a change of use requiring a special use permit from the Planning Board.

M. [Added 9-3-1992 by L.L. No. 4-1992] Sawmill operations.

- (1) In addition to the conditions and criteria in § 140-35 above, all principal and accessory sawmill uses shall comply with the following:
  - (a) The sawmill operation shall function only during the hours of 7:00 a.m. to 7:00 p.m., except that the Planning Board, at its discretion, may expand these hours of operation based upon a demonstration by the applicant that the sawmill operation will not result in adverse noise, lighting and traffic impacts during the expanded hours of operation due to the size of the property, the machinery to be utilized, whether the machinery will be enclosed in a building, etc.
  - (b) The sawmill operation shall only be permitted on a lot which is four or more acres in size. An enclosed sawmill operation is permitted on a lot which is at least one acre in size.<sup>35</sup>
  - (c) The sawmill operation shall not result in unreasonably objectionable off-site noise impacts.<sup>36</sup>
  - (d) Ingress to and egress from the property on which the sawmill is located shall be so arranged as to provide minimum interference with off-site traffic.
  - (e) Logs, lumber and sawmill waste materials shall be located as far away from the perimeter property lines of the site and at such height as, in the Planning Board's judgment, is practical.<sup>37</sup>
  - (f) All sawmill refuse materials shall be disposed of properly.
  - (g) The sawmill shall not be located closer than 100 feet to any perimeter property line of the site. If the sawmill operation is enclosed, then the minimum setbacks applicable to the district in which said sawmill is located shall apply.<sup>38</sup>
  - (h) The sawmill operation shall not create any conditions which are injurious or hazardous to the public.
  - (i) The sawmill operation shall be such that it will not alter or be detrimental to the character of the surrounding neighborhood.
- (2) In addition to the conditions and criteria in § 140-35 and above, all sawmill operations which have the capacity to process more than 4,000 board feet of lumber per day shall also be subject to the following:
  - (a) Such sawmill operation shall function only during Monday through Saturday and not on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.<sup>39</sup>

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

<sup>36</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>37</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>38</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>39</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (b) Notwithstanding Subsection M(1)(b) above, such sawmill operation shall only be permitted on a lot which is six or more acres in size.
- (c) The milling portion of the operation must be conducted in a fully enclosed building.
- (d) Primary vehicular access to such sawmill operation shall not be by a minor street or any other street serving primarily as access to abutting residential properties; primary access shall be by a street in the collector, arterial, county or state roadway 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.

N.<sup>40</sup> Bed-and-breakfast establishments. In addition to the conditions and criteria in § 140-35 above, all bed-and-breakfast establishments shall comply with the following:

- (1) The minimum lot size for the establishment of this use shall be 40,000 square feet.
- (2) There shall be a maximum of two nonresident employees at a bed-and-breakfast establishment.
- (3) Off-street parking accessory to this use shall not be located in front yards which abut a street.
- (4) The outward appearance of the use shall be that of a single-family home and there shall be no indication of the bed-and-breakfast establishment from the exterior of the building, except for the sign. A separate entrance into the building for the bed-and-breakfast use shall not be permitted.
- (5) Food and beverage service shall only be provided to registered guests of the bed and breakfast establishment.
- (6) The lodging provided shall be for periods of less than two weeks in duration.
- (7) The maximum number of guest rooms at a bed-and-breakfast establishment shall be four, except that the Planning Board may, at its discretion, allow additional guest rooms up to a maximum of eight where the Board determines that the size and shape of the lot on which the establishment is proposed can accommodate the additional patrons and parking.

O. Automobile junkyards.<sup>41</sup> In addition to the conditions and criteria in § 140-35 above, all automobile junkyards shall comply with the following:

- (1) No automobile junkyard shall be located within 1,000 feet of a church, school, public building or place of public assembly.
- (2) All automobile junkyards shall be completely surrounded with a fence which is at least six feet in height and which substantially screens the subject use from view. This fence shall include a gate or gates which shall be closed and locked, except during the

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<sup>40</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>41</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

working hours of the automobile junkyard and when the operator is on-site. Said fence shall be erected not nearer than 50 feet from public roadways and shall be well-maintained and neat in appearance. All wrecking and other work pertaining to the automobile junkyard shall take place within the fence. Where the topography, natural growth of vegetation or other considerations accomplish the purposes of this section, in whole or in part, the fencing requirements herein may be reduced or eliminated if, in the Planning Board's opinion, said considerations mitigate the need for all or part of the fencing.

- (3) Ingress to and egress from the property on which the subject activity is located shall be arranged so as to provide minimum interference with off-site traffic.
- (4) The automobile junkyard shall comply with the activity standards of § 140-20C herein, which standards apply to all uses in all zoning districts of the town.
- (5) The automobile junkyard shall not create any conditions which are injurious or hazardous to the public.
- (6) The automobile junkyard shall be such that it will not be detrimental to the character of the surrounding neighborhood.

P.<sup>42</sup> Brewing or distilling of liquors for immediate consumption and/or retail sale on premises; fish smoking or curing for immediate consumption and/or retail sale on premises; and slaughtering of animals as a service to local raisers of livestock, and slaughtering for retail sale on the premises. In addition to the conditions and criteria in § 140-35 above, the subject uses shall comply with the following:

- (1) No such use permitted in the A or R-1 Districts shall be located on a property that is less than three acres in size in said districts. No such use permitted in B, I or HD Districts shall be located on a property that is less than one acre in size in said districts.
- (2) No such use permitted in the A or R-1 Districts shall be located within 100 feet of a property line in said districts. No such use permitted in the B, I or HD Districts shall be located within 50 feet of a property line in said districts.
- (3) Each use shall have adequate off-street parking as determined appropriate by the Planning Board.
- (4) Retail sale in connection with such uses, other than the sale of alcoholic beverages, shall not be conducted on Sunday nor on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.
- (5) All waste and refuse materials shall be stored in a location or locations as determined appropriate by the Planning Board and shall be disposed of properly.
- (6) Each such use shall have fencing and/or buffer screening as determined appropriate by the Planning Board.

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<sup>42</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



- (7) No such use shall emit toxic, noxious or offensive odors, dust or fumes beyond the property lines of the site.
- (8) No such use shall alter or be detrimental to the general health, safety, welfare or character of the surrounding neighborhood.

**§ 140-37. Additional conditions.**

In issuing a special use permit the Planning Board may require any walks, fence or landscaping or attach such conditions which it deems necessary to protect the value of adjacent properties or to prevent any hindering of the appropriate use of adjacent land.

**ARTICLE VIII  
Nonconforming Building Uses and Lots**

**§ 140-38. Continuation of nonconforming building and uses.**

- A. Any lawful building, structure or use of premises existing at the time of enactment of this chapter or any subsequent amendment thereof applying to such building, structure or use of premises may be continued although such building, structure or use of premises does not conform to the provisions thereof, except as follows:
- B. Any undeveloped lot in a subdivision which was not properly approved by the Planning Board and/or not filed in the office of the County Clerk and whose area and/or width and/or depth are less than the specified minimum lot requirements of this chapter shall be considered a violation of this chapter.

**§ 140-39. Discontinuance.**

Any building or land used for or occupied by a nonconforming use which is changed to or replaced by a conforming use shall not thereafter be used for or occupied by a nonconforming use, provided that such conforming use exists for a period of five consecutive years or provided that said property, use or building is not used for five consecutive years.

**§ 140-40. Extension, alteration, restoration.**

- A. A nonconforming use shall not be extended, enlarged or structurally altered, but the extension of a lawful use in any portion of a nonconforming building which existed prior to the date of the adoption of this chapter shall not be deemed the extension of such nonconforming use. A nonconforming building may be rebuilt in the event of partial or total destruction thereof to occupy the same space on the lot or rebuilt providing greater yard space and less lot coverage and not exceeding the height of the totally or partially destroyed building.
- B. Notwithstanding any provisions of this chapter, a nonconforming business and/or industrial use in a residential zone may expand or increase the extent of such use, provided that:

- (1) With respect to buildings located upon lands owned by the holder of such nonconforming use on the date of the adoption of this chapter, said owner may enlarge, increase or extend the size and areas of such buildings by no more than 100% of their present size and area as existed at the date of the adoption of this chapter. This extension may be exercised by adding to existing buildings or by the erection of new buildings on the same parcel or contiguous parcels, if title to such contiguous parcel was in the same owner on the date of the adoption of this chapter.
- (2) The right to increase, extend and enlarge the nonconforming use as herein provided shall be subject to a conditional use contingent on securing a special use permit in each case from the Planning Board, pursuant to Article VII et seq of this chapter.

**§ 140-41. Necessary maintenance and repairs.**

A building or structure of a nonconforming use may be repaired or restored to a safe condition.

**§ 140-42. Change to other nonconforming use.**

A nonconforming use of a building, structure or land may be changed to another nonconforming use which is of the same or more restricted in nature. However, no building in which a nonconforming use has been changed to a more restricted use shall again be devoted to a less restricted use. Uses shall be deemed more restricted or less restricted in accordance with § 140-10 and Article II. The change of a nonconforming use of a building, structure or land to another nonconforming use shall include the right to change an accessory nonconforming sign, provided that such sign is not increased in area or does not further violate provisions of this chapter.

**§ 140-43. Construction started prior to this chapter.**

Any lawful building or structure for which construction was begun prior to the effective date of this chapter or any subsequent amendment thereof applying thereto may be completed and used in accordance with the plans and specifications for building or structure.

**§ 140-44. Existing undersized lots.**

- A. [Amended 6-3-1993 by L.L. No. 1-1993] Any lot, whether developed or undeveloped, held in single and separate ownership prior to the adoption this chapter and whose area and/or width and/or depth are less than the specific minimum lot requirement of this chapter for the district, may be considered as complying with such minimum lot requirements and no variance shall be required, provided that:
- (1) Such lot does not adjoin any other lot or lots held by the same owner whose contiguous area is equal to or greater than the minimum lot area required for that district;
  - (2) Such lot has an area of at least 5,000 square feet and a minimum width of at least 50 feet at the required setback line if it is to be used for residential purposes;

- (3) The following minimum yard dimensions are maintained for residence:
  - (a) Front yard: 25 feet.
  - (b) Side yard: 8 feet.
  - (c) Rear yard: 25 feet.
- (4) All other bulk requirements for that district are complied with.
- B. Notwithstanding the other subsections of this section, any lot in the HD district, on which a building exists on the date of the adoption of the HD district, shall be considered as complying with all of the dimensional requirements specified in the Density Control Schedule<sup>1</sup> for the HD district.
- C. In any district where residences are permitted, such undersized nonforming lots may be used for not more than one single-family dwelling.
- D. A lot of nonforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said adjoining owners' property.

**§ 140-45. Reduction in lot area.**

No lot shall be reduced in area so that it creates a nonconforming bulk or use in violation of any regulations contained in this chapter.

**§ 140-46. Exemption of lots shown on approved subdivision plats.**

- A. In accordance with Town Law, § 265-a, any lot proposed for residential use in a subdivision whose plat delineates one or more new streets, roads or highways and which said subdivision plat has been properly approved by the Planning Board and filed in the office of the County Clerk, prior to the passage of this chapter, and whose area and/or width and/or depth are less than the specified minimum lot requirements of this chapter for that district shall be considered as complying with such minimum lot requirements for two years after the filing of the subdivision plat.
- B. If, at the time of the filing of the subdivision plat referred to above, there was no Planning Board vested with authority to approve subdivision plats, then the exemption provided for in such subdivision shall apply for a period of one year after the filing of said subdivision plat in the office of the County Clerk.

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<sup>1</sup> Editor's Note: The Density Control Schedule is located at the end of this chapter.

ARTICLE IX  
Site Plan Procedure

**§ 140-47. Referral to the Planning Board. [Amended 4-2-1998 by L.L. No. 1-1998]**

In each case where a proposed building or use requires site plan approval by the Planning Board, the Code Enforcement Officer shall refer said site plan application to the Planning Board for review and approval before issuing a building permit, after applicant shall pay a fee as set from time to time by resolution of the Town Board.<sup>2</sup> Prior to the referral of said site plan application to the Planning Board, the Code Enforcement Officer shall determine whether or not the proposed use is permitted in the zoning district in which it is proposed.

**§ 140-48. Procedure. [Amended 4-2-1998 by L.L. No. 1-1998; 6-3-1999 by L.L. No. 1-1999]**

- A. Presubmission. Prior to the submission of a formal site plan, the applicant may, at its option, meet in person with the Planning Board to discuss the site plan and to determine specific items and level of detail of the submission requirements necessary for reviewing the required site plan.
- B. The applicant shall submit 10 copies of the proposed site plan and any related information to the Planning Board Secretary, who shall forward two copies of same to the Code Enforcement Officer. The site plan shall be accompanied by the fee as set forth in § 140-47 above.
- C. Within 15 calendar days of submission, the Code Enforcement Officer shall review each original or amended site plan and advise whether or not the application is complete and whether the plan meets the requirements of all the provisions of this chapter other than those of this section regarding site plan review. The Code Enforcement Officer shall return the proposed site plan to the applicant for completion or revision if he finds said application to be incomplete.
- D. Upon advising that an application is complete, the Code Enforcement Officer shall forward it to the Planning Board prior to its next regular meeting, which shall be considered the official submission date.
- E. The Planning Board, after preliminary review, shall hold a public hearing on each request for site plan approval within 62 days of receipt of the application. The Planning Board shall mail notice of such hearing to the applicant at least 10 days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the town at least five days prior to the date thereof. The Planning Board may also establish such other rules and regulations as it deems appropriate and in accordance with Town Law.

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<sup>2</sup> Editor's Note: The fee schedule is on file in the town offices.

**§ 140-49. Standards for site plan review.**

- A. The Planning Board shall consider the public health, safety and general welfare, the comfort and convenience of the public in general and the residents of the immediate neighborhood in particular and shall consider all applicable requirements of this chapter.
- B. In addition to the above Subsection A, the Planning Board shall also consider:
- (1) Traffic access. That all proposed access ways to and from a street are adequate, but not excessive in number, adequate in width, grade, alignment and visibility, not located too close to street intersections.
  - (2) Circulation and parking. That the interior circulation system is adequate to provide safe accessibility to all required off-street parking.
  - (3) Landscaping and screening. That parking and service areas are reasonably screened from view of adjacent property owners and that buffer area requirements of this chapter are complied with.
  - (4) Harmony of ordinary development. That such use will be in harmony with the ordinary development of the district, and the location nature height of buildings, walls, fences and parking areas will not discourage the appropriate development and use of adjacent lands.
  - (5) Reasonable access. That all structures, equipment and materials shall be of reasonable access for fire, police and other emergency protection.

**§ 140-50. Action by Planning Board. [Amended 4-2-1998 by L.L. No. 1-1998]**

Within 62 days of the public hearing, the Planning Board shall either approve, approve with modifications or disapprove said site plan, stating the reasons therefor, in writing, in its records. The Planning Board shall file a written notice of its decisions with the Code Enforcement Officer. The decision shall also be filed in the office of the Town Clerk within five business days after such decision is rendered and a copy thereof shall be mailed to the applicant. One copy of the approved site plan shall be returned to the applicant.<sup>3</sup>

**§ 140-51. Rules.**

All applications for site plan review shall follow all rules and regulations as established by the Planning Board. All applications for site plan review together with complete instructions for completing the same, may be obtained from the Town Clerk by paying the required fee as set forth in § 140-47 above.

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

ARTICLE X  
Administration

**§ 140-52. Enforcement.**

- A. This chapter shall be enforced by the Code Enforcement Officer, who shall be appointed by the Town Board.
- B. No building permit or certificate of compliance shall be issued by the Code Enforcement Officer, and no permit or license shall be issued by any official of the town, if same would be in conflict with the provisions of this chapter. [Amended 6-3-1999 by L.L. No. 1-1999]

**§ 140-53. Building permit. [Amended 6-3-1999 by L.L. No. 1-1999]**

- A. No building or structure shall be erected, added to or moved, nor shall any existing building or land be changed in use, until a zoning permit and/or building permit therefor has been issued by the Code Enforcement Officer.
- B. All applications for building permits shall be accompanied by two copies of a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot and such other information as may be required by the Code Enforcement Officer in order to determine compliance with this chapter. One copy of such plans, when approved by the Code Enforcement Officer, shall be returned to the applicant.
- C. The fees for all applications for building permits in the Town of Rochester shall be set from time to time by resolution of the Town Board. The fees as required by this section are to be remitted to the Town Clerk and must accompany the application for building permit.
- D. Upon receipt of an application for a building permit, the Code Enforcement Officer shall examine the same for compliance with this chapter. The Code Enforcement Officer shall then notify the applicant of what procedures must be taken to obtain such permit. Upon the applicant's completion of all necessary action to obtain said building permit, the Code Enforcement Officer shall issue a building permit.
- E. Said building permit shall be of sufficient size and durability to allow the same to be posted conspicuously at the site or building requiring the same, so that it may be seen from a public highway or nearest road during the construction or work and until the issuance of a certificate of compliance and completion.

**§ 140-54. Certificate of compliance and/or completion.**

- A. The Code Enforcement Officer is required to issue a certificate of compliance and/or completion when the conditions and requirements of the previously issued zoning or building permit are met.
- B. No occupancy or use of the lot; parcel or premises which said certificate effects shall take place without said certificate.

- C. No such certificate shall be issued until proof is provided that any sewage or septic system has been approved by the Ulster County Department of Health and that the necessary town, county or state driveway permit has been obtained and the conditions therein met, after further inspection by the Code Enforcement Officer. In addition, no certificate may be issued where the applicant has failed to comply with the requirements of a final environmental impact statement (EIS), if appropriate, or other requirement of the State Environmental Quality Review Act.

**§ 140-55. Notice of violation.**

Whenever the Code Enforcement Officer observes a violation of this chapter, said Code Enforcement Officer shall issue a written notice of said violation to the violator and the property owner. This notice of violation shall require the violation be corrected in not less than 15 days, although the Code Enforcement Officer, in his discretion, may extend or shorten the required period to remedy the violation. In no event, shall the Code Enforcement Officer extend the time period beyond 30 days without approval from the Town Board. Copies of the violation should forthwith be sent to the Zoning Board of Appeals, the Planning Board and the Town Board.

**§ 140-56. Entry upon lands.**

In order to effectuate the provisions of this chapter, the Code Enforcement Officer shall have the right to enter upon any parcel of real property within the Town of Rochester for the purpose of inspection of the same, upon the advice and consent of the Town Attorney or legal advisor, as the case may be, who shall deem the procedure to be utilized for the Code Enforcement Officer to gain entry upon such lands.

**§ 140-57. Receipt of written complaint or violation.**

The Code Enforcement Officer shall, not less than 10 days after receiving a written complaint of a violation, make his written report to the Zoning Board of Appeals, the Planning Board and the Town Board. Such report may be in the form of a certificate of completion and/or compliance even if there shall be no violation upon his inspection of the same.

(Cont'd on page 14061)

**§ 140-58. Training of Code Enforcement Officer. [Amended 4-2-1998 by L.L. No. 1-1998]**

Any newly appointed Code Enforcement Officer, including the incumbent inspector, shall be given a training course that complies with standards for Code Enforcement Officers as established by New York State.

**§ 140-59. Penalty for offenses. [Amended 4-2-1998 by L.L. No. 1-1998]**

The first violation of this chapter is an offense punishable by a fine not exceeding the sum of \$350 or by imprisonment for not more than six months, or by both such fine and imprisonment. A second offense within five years is punishable by a fine of not less than \$350 nor more than \$700 or imprisonment of not more than six months, or by both such fine and imprisonment; for a third and subsequent offense within five years, by a fine of not less than \$700 nor more than \$1,000 or six months imprisonment, or both. Each week the violation continues shall be deemed to be a separate and distinct violation. In addition, the Code Enforcement Officer may apply to the Town Board for permission to commence an action for an injunction pursuant to § 268, Subdivision 2, of the Town Law.

**ARTICLE XI**  
**Zoning Board of Appeals (ZBA)**

**§ 140-60. Establishment and duties. [Amended 7-7-1986 by L.L. No. 3-1986; 4-2-1998 by L.L. No. 1-1998]**

Pursuant to Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five members, shall designate its Chairman and also provide for compensation to be paid to said members and provide for such other expenses as may be necessary and proper. A member of the Zoning Board of Appeals shall not, at the same time, be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

**A. Term of appointment.**

- (1) Of the members of the Zoning Board of Appeals first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years from and after said member's appointment.
- (2) Successors shall be appointed for the term of five years from and after the expiration of the terms of their predecessor. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term.

**B. Staff.** The Zoning Board of Appeals may employ such clerical or other staff assistance as may be necessary and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of the appropriations made by the Town Board and then available for that purpose.**C. Rules and procedures, bylaws, forms.**



- (1) The Zoning Board of Appeals shall have the power to make, adopt and promulgate such written rules or procedures, bylaws and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this chapter. Such rules, bylaws and forms shall not be in conflict with, nor have the effect of waiving, any provisions of this chapter or any other ordinances of the Town of Rochester. Such rules, bylaws, and forms and any subsequent amendments or supplements thereto shall be submitted to the Town Board by the Zoning Board of Appeals for approval and filing for public view.
  - (2) The Town Board shall move to approve, reject or modify such rules, bylaws and forms within 30 days after submission. Failure of the Town Board to so move shall be construed to constitute approval thereof.
- D. Meetings. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. The Chairman or, in the absence of said Chairman, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The concurring vote of a majority of all members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer or to decide in favor of an applicant in any matter upon which they are required to pass under any ordinance to effect any variation in the local law. The Zoning Board of Appeals shall decide an appeal or any other matter referred to it within 62 days after the final hearing.
- E. The Zoning Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question. If a member is absent or fails to vote, the minutes shall indicate the same. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Zoning Board of Appeals shall immediately be filed in the office of the Town Clerk and shall be a public record.
- F. Referrals to the Planning Board. At least 45 days before the date of hearing held in connection with any appeal or application submitted to the Zoning Board of Appeals, said Board shall transmit to the Planning Board a copy of said appeal or application and shall request that the Planning Board submit to the Zoning Board of Appeals its advisory opinion on the same. The Planning Board shall submit a report of such advisory opinion prior to the date of said public hearings. The failure of the Planning Board to submit such report shall be interpreted as a favorable opinion for said appeal or application.

**§ 140-61. Public notice and hearing.**

- A. Public notice of any required hearing by the Zoning Board of Appeals shall be given in accordance with Town Law as follows:

- (1) By publishing a notice of any appeal or application and the time and place of the public hearing in the official newspaper of the town not less than five days prior to the date of such hearing.<sup>48</sup>
- (2) By giving written notice of hearing to any appellant or applicant and any other such notice to property owners in an affected area as may be required by the Zoning Board of Appeals and to the Planning Board not less than five days prior to such hearing.
- (3) By giving written notice of hearing to any required municipal, county, metropolitan, regional, state or federal agency in the manner prescribed by law.

#### § 140-62. Appeals.<sup>49</sup>

- A. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Code Enforcement Officer under this chapter in accordance with the procedure set forth herein:
- (1) Notice of appeal shall be filed with the Code Enforcement Officer and the Secretary of the Zoning Board of Appeals, in writing, in a form required by such board, within 60 days of the date of the action appealed from, specifying the grounds thereof.
  - (2) Upon filing of a notice of appeal and payment of a fee set from time to time by resolution of the Town Board<sup>50</sup> by the appellant or applicant in accordance with a fee schedule as set by resolution of the Town Board, the Code Enforcement Officer shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.<sup>51</sup>
  - (3) The Zoning Board of Appeals shall set a reasonable date for the hearing of each appeal, of which hearing date the appellant shall be given notice and at which hearing the appellant shall appear in person or by agent or by attorney. Public notice of such hearing shall be given by publication in a paper of general circulation in the town at least five days prior to the date of the hearing. Notice shall also be given to owners of premises and/or buildings involved.
  - (4) An appeal stays all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer certifies to the Zoning Board of Appeals, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Code Enforcement Officer and on due cause shown.
  - (5) Following public notice and hearing, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or

<sup>48</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>49</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>50</sup> Editor's Note: The fee schedule is on file in the town offices.

<sup>51</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made with respect to the premises, and to that end shall have all the power of the Code Enforcement Officer. The Zoning Board of Appeals shall decide the appeal within 62 days following the hearing.

- B. A motion for the Zoning Board of Appeals to hold a rehearing to reevaluate any order, decision or determination of said Board not previously reevaluated may be made by any member of said Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as the original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided that the Board finds that the rights vested in persons acting in good faith in reliance upon the reevaluated order, decision or determination will not be prejudiced thereby.

### **§ 140-63. Variance.**

- A. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the Zoning Board of Appeals shall have the power, after public notice and hearing, to vary or modify the application of any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.
- B. All applications for variances shall be filed with the Secretary of the Zoning Board of Appeals, in writing, shall be made in a form required by the Zoning Board of Appeals and shall be accompanied by payment of a filing set from time to time by resolution of the Town Board<sup>52</sup> and a plot plan, drawn to scale and accurately dimensioned, showing the location of existing and proposed buildings and structures on the lot.<sup>53</sup>
- C. Any variance which is not exercised within one year from the date of issuance or within one year of the date of special permit or site plan approval from the Town Planning Board pursuant to § 140-63D(4) herein, whichever occurs later, is hereby declared to be revoked without further hearing by the Zoning Board of Appeals.<sup>54</sup>
- D. <sup>55</sup> The following shall be the criteria for granting variances:
  - (1) Use variances.
    - (a) The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.

<sup>52</sup> Editor's Note: The fee schedule is on file in the town offices.

<sup>53</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>54</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>55</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (b) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
    - [1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
    - [2] That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
    - [3] That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - [4] That the alleged hardship has not been self-created.
  - (c) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (2) Area variances.
- (a) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant area variances, as defined herein.
  - (b) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:
    - [1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
    - [2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
    - [3] Whether the requested area variance is substantial;
    - [4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
    - [5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
  - (c) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same

time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- (3) The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- (4) Upon the granting of an area variance by the Zoning Board of Appeals in connection with a use for which special use permit or site plan approval is normally required by the terms of this chapter, the applicant shall be required to obtain special use permit or site plan approval, as appropriate, from the Town Planning Board pursuant to Articles VII and IX of this chapter. Upon the granting of a use variance by the Zoning Board of Appeals, the applicant shall be required to obtain special use permit approval from the Town Planning Board pursuant to Article VII of this chapter. Said special use permit or site plan approvals shall be applied for within one year of the granting of a variance.

#### **§ 140-64. Relief from decisions.**

Refer to § 267-c of the Town Law.<sup>56</sup>

### **ARTICLE XII Amendments**

#### **§ 140-65. Procedure.<sup>57</sup>**

The Town Board may, from time to time, on its own motion or on petition or on recommendation from the Planning Board, amend the regulations and district established under this chapter after public notice and hearing in each case. All petitions for any amendments of the regulations or districts herein established shall be filed, in writing, in a form required by the Town Board.<sup>58</sup> See § 1-14 of the Town Code regarding costs.

#### **§ 140-66. Referrals to Town Planning Board, County Planning Board and adjacent municipalities.<sup>59</sup>**

- A. Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board for an advisory opinion. The Planning Board shall report its recommendations thereon to the Town Board, accompanied by a full statement of reasons

<sup>56</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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<sup>59</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

for such recommendations, prior to the decision on such amendment. If the Planning Board fails to report to the Town Board within 30 days from the date of the receipt of such request for an advisory opinion or such longer time as may have been agreed upon by it and the Town Board, the Town Board may proceed without such report.

- B. Certain zoning text and map amendments shall also be referred to the Ulster County Planning Board at least 30 days prior to the Town Board's decision, in accordance with the provisions of §§ 239-l and 239-m of the New York State General Municipal Law.
- C. Further, certain zoning text and map amendments shall be referred to adjacent municipalities at least 10 days prior to the public hearing at which such amendments are to be considered by the Town Board in accordance with the provisions of § 264 of the New York State Town Law.

#### **§ 140-67. Public notice and hearing.**

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 proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the town not less than 10 days prior to the date of said public hearing.
- B. By giving written notice of hearing to any required municipal, county, regional, metropolitan, state or federal agency in the manner prescribed by law.

#### **§ 140-68. Protest by owners.**

If a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed amendment, or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least  $\frac{3}{4}$  of the members of the Town Board.

#### **§ 140-69. Changes by Planning Board.**

The Planning Board, in accordance with Town Law, § 281, may simultaneously with the approval of any plat, make any reasonable change to the regulations established under this chapter with respect to the land so platted. Before the Planning Board shall make any such change, there shall be a public hearing preceded by the same notice as in the case of the approval of the plat itself. Once the plat is filed in the office of the County Clerk, such changes shall be and become part of the regulations of this chapter, shall take the place of any regulations established herein by the Town Board, shall be enforced in the same manner and shall be similarly subject to amendment. Also, see § 140-28 (Residential cluster development).

**§ 140-70. Publication and posting.**

Every amendment to this zoning and land use chapter, including any map incorporated therein, adopted in accordance with the Town Law, shall be entered in the minutes of the Town Board and a copy, shall be filed with the Secretary of State and posted on a signboard maintained by the Town Clerk, pursuant to § 30, Subdivision 6, of the Town Law. Acknowledgement of the filing with the Secretary of State and affidavit of posting thereof shall be filed with the Town Clerk.<sup>60</sup>

**ARTICLE XIII**  
**Interpretation and Application**

**§ 140-71. Legislative intent.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety and general welfare.

**§ 140-72. Noninterference and precedence.**

This chapter shall not interfere with, abrogate, annul or repeal any local law or any rule, regulation or permit previously or hereafter enacted, adopted or issued pursuant to law, provided that, unless specifically excepted, where this chapter imposes greater restrictions, its provisions shall control.

**§ 140-73. When effective.**

In accordance with the procedure set forth in the Municipal Home Rule Law, this chapter shall take effect on filing with the Secretary of State.

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<sup>60</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

# ZONING

## Town of Rochester Schedule of Zoning Uses [Amended 6-7-1984 by L.L. No. 4-1984; 10-18-1990 by L.L. No. 3-1990; 6-3-1993 by L.L. No. 1-1993<sup>61</sup>]

No building or premises shall be erected, altered or used except for one or more of the uses designated for any district as follows:

- Symbols:** (Y) Designates a use permitted by right.  
 (X) Designates a conditional use contingent on securing a special use permit in each case from the Planning Board in accordance with the provisions of Article VII et seq.  
 (SP) Designates a use permitted by right which requires site plan approval by the Planning Board in accordance with Article IX, et seq.  
 (N) Designates an unpermitted use.

	District						
	A	R-1	R-2	B	I	F	HD
<b>Residential Uses</b>							
One-family dwelling	Y	Y	Y	Y	N	X	Y
Two-family dwelling	X	X	X	X	N	X	X
Multifamily dwelling	X	X	X	X	N	N	X
Boardinghouse	X	X	X	X	N	N	X
Mobile home	Y	Y	Y	Y	N	X	N
Mobile home park	X	X	X	X	N	N	N
Fraternity, sorority house	X	X	N	N	N	N	X
<b>General Uses</b>							
Agriculture (not including the keeping of fowl or farm animals) in compliance with § 140-20J	Y	Y	Y	Y	Y	Y	Y
Agriculture (including the keeping of fowl or farm animals) in compliance with § 140-20J	X	X	X	X	N	Y	X
Retail sale of agricultural produce grown on the same lot from a road stand	Y	Y	X	X	X	X	X

<sup>61</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



ROCHESTER CODE

General Uses	District						
	A	R-1	R-2	B	I	F	HD
Resort hotel, camp, resort ranch or resort lodge	X	X	N	N	N	N	N
Bungalow colony	X	X	X	N	N	N	N
Church or other places of worship; including parish house, rectory, parsonage, convent and other religious buildings	X	X	X	X	N	N	X
Private, academic or parochial school	X	X	X	X	N	N	X
Day nursery	SP	SP	X	X	N	N	X
Hospital	X	X	X	X	X	N	X
Nursing or convalescent home or sanitarium	X	X	X	X	X	N	X
Cultural facilities (library, art gallery, museum, etc.)	SP	SP	SP	SP	N	N	SP
Nonprofit club or recreation use	SP	SP	X	SP	SP	N	SP
Federal, state, county and municipal governmental offices	SP	SP	SP	SP	SP	N	SP
Public parks and playgrounds	SP	SP	SP	SP	SP	SP	SP
Public schools, colleges, fire houses, Town Hall, Highway Department and library	SP	SP	SP	SP	SP	N	SP
Private institution or membership club	X	X	X	X	N	N	X
Institutional or philanthropic use	X	X	X	X	N	N	X
Cemetery in compliance with § 140-26	SP	SP	SP	N	SP	N	SP
Crematory in compliance with § 140-26	X	N	N	N	X	N	N
Golf course or country club	SP	SP	SP	N	N	SP	N

# ZONING

General Uses	District						
	A	R-1	R-2	B	I	F	HD
Public utility lines, mains, laterals, except high tension lines, railroad stations	SP	SP	SP	SP	SP	SP	SP
Structures and buildings used by public utilities in furnishing services including electric or gas utility substation, transformer station, water or sewage pumping stations and other similar structures and high tension lines	X	X	X	X	X	X	X
Commercial recreation uses, specifically oriented towards the use of mountain land, such as downhill ski areas, downhill ski-tow, warming and downhill ski maintenance huts, swimming and camping areas	X	X	N	N	N	X	N
Cross-country ski areas, and warming and cross-country ski maintenance huts	X	X	X	N	N	X	SP
Temporary portable sawmill operation which is located on any particular site for 90 days or less	Y	Y	Y	Y	Y	Y	N
Slaughtering of animals for consumption on the premises	Y	Y	Y	Y	Y	Y	N
Camping resort or travel trailer camp	X	X	X	N	N	N	N
Drug rehabilitation center and halfway house	N	N	N	X	N	N	N

# ROCHESTER CODE

Accessory	District						
	A	R-1	R-2	B	I	F	HD
Home occupation in compliance with § 140-20A, where the use does not involve any nonresident employees; where the use only utilizes normal household and/or general office equipment, materials, energy and resources; and where only 1 home occupation is conducted on the parcel	Y	Y	Y	Y	Y	X	Y
Home occupation, in compliance with § 140-20A, where the use involves nonresident employees; where the use does not solely utilize normal household and/or general office equipment, materials, energy and resources; or where more than 1 home occupation is conducted on the parcel	SP	SP	SP	Y	Y	X	SP
Home occupation in compliance with § 140-20A, where the use is automotive in nature	X	X	X	X	X	X	X
Accessory use customarily incident to any of the uses mentioned herein, and on the same lot	Y	Y	Y	Y	Y	Y	Y
Accessory use customarily incident to any of the uses mentioned herein and not on the same lot	X	X	X	X	X	X	X
Stables for horses for noncommercial purposes	Y	Y	Y	SP	SP	SP	X
Accessory apartment as set forth in § 140-29	X	X	X	X	N	X	X

# ZONING

Business Uses	District						
	A	R-1	R-2	B	I	F	HD
Gift, antique or craft sales establishment and/or gift, antique or craft workshop	X	X	X	SP	N	N	SP
Professional office, business office, bank	N	N	N	SP	SP	N	SP
Retail stores and shops except food and grocery	N	N	N	SP	N	N	SP
Service establishments	N	N	N	SP	N	N	SP
Funeral home	N	N	N	SP	N	N	X
Restaurant	X	N	N	SP	Y	N	SP
Hotel	X	N	N	SP	N	N	SP
Bar or night club	X	N	N	X	N	N	X
Bowling alley	N	N	N	SP	N	N	X
Skating ring	X	N	N	SP	N	N	X
Dance hall, billiard hall, pool hall as the principal use	N	N	N	X	N	N	X
Theater or concert hall	X	N	N	SP	N	N	X
Veterinarian office, animal hospitals or kennels	X	N	N	SP	X	N	X
Newspaper offices and printing shops	N	N	N	SP	N	N	SP
Gasoline filling stations in compliance with § 140-23	X	N	N	X	N	N	X
Commercial parking lot in compliance with § 140-20H	N	N	N	SP	SP	X	SP
Automobile repair	N	N	N	SP	N	N	X
Carwashing station	N	N	N	X	N	N	X
Equipment, trailer rental or sales yard	N	N	N	X	X	N	X
Wholesale business or service	N	N	N	X	SP	N	X
Laundry or dry cleaning plant	N	N	N	X	X	N	X
Motel	N	N	N	X	SP	N	SP

ROCHESTER CODE

Business	District						
	A	R-1	R-2	B	I	F	HD
Radio, television and other electric transmission stations and towers	X	X	N	X	X	X	N
Telephone exchange	N	N	N	SP	SP	N	SP
Airports and flying field	X	X	N	N	N	X	N
Nursery, green houses	X	X	X	SP	N	SP	SP
Bus station	N	N	N	SP	N	N	X
Amusements operated for profit, except go-kart tracks and vehicle racetracks	X	N	N	X	N	N	X
Go-kart tracks and vehicle racetracks	X	N	N	X	N	N	N
Automobile junkyards, in compliance with § 140-36O	X	N	N	X	N	N	N
School bus garages	N	X	N	X	N	N	X
Food and grocery store	X	X	X	X	X	N	X
Research laboratories	N	N	N	X	SP	N	X
Manufacture, fabrication, assembly, warehousing and other handling of materials in compliance with § 140-20C not exceeding 2,500 square feet in floor area	N	N	N	X	SP	N	X
Manufacture, fabrication, extraction, assembly, warehousing and other handling of material in compliance with § 140-20C, excluding prohibited uses listed in § 140-11	N	N	N	X	SP	N	N
Extractive operations and soil mining	X	X	N	N	X	X	N
Power plants	X	X	N	N	X	X	N
Fuel storage and distribution	N	N	N	X	X	N	X
Bed-and-breakfast establishment	SP	SP	SP	SP	N	N	SP
Livery stable	Y	X	X	SP	SP	SP	X

# ZONING

Business Uses	District						
	A	R-1	R-2	B	I	F	HD
Sawmill operation which is located on any particular site for more than 90 days	X	X	N	N	N	N	N
Brewing or distilling of liquors for immediate consumption and/or retail sale on premises	X	N	N	X	SP	N	X
Fish smoking or curing for immediate consumption and/or retail sale on premises	X	N	N	X	SP	N	X
Slaughtering of animals as a service to local raisers of livestock, and slaughtering for retail sale on the premises	X	X	N	N	X	N	N
Any other use not listed herein and use not specifically prohibited	N	N	N	X	X	N	N

Density Control Schedule  
Town of Rochester

Zone Code	Minimum Lot Dimensions <sup>2</sup>				Minimum Yard <sup>2</sup> Dimensions			Maximum Lot Coverage, Including all Accessory Buildings	Maximum Building Height <sup>2</sup>	
	Residential		Nonresidential		Front Yard (feet) <sup>4</sup>	Each Side Yard (feet)	Rear Yard (feet)		Stories	Feet
	Minimum Lot Area per Dwelling Unit (square feet)	Minimum Lot Width (feet)	Minimum Lot Area (square feet)	Minimum Lot Width (feet)						
HD	20,000	100	20,000	100	35	20	40	30%	2½	35
A¹	1 acre	160	43,560	160	60	40	40	30%	2½³	35³
R-1¹	1 acre	160	43,560	160	60	40	40	30%	2½³	35³
R-2	1 acre	160	43,560	160	60	40	40	30%	2½	35
B (business use)	1 acre (for residence)	160	..	..	60	40	40	30%	2½	35
			43,560	100	60	12½	25	50%	2½	35
I	..	..	1	100	60	40	50	35%	3	40
F	..	..	43,560	160	60	40	50	30%	2½³	35³
NOTE:										

NOTE:

<sup>1</sup> An Industrial District (I) may be established in A, R-1 and B districts, provided all of the provisions of § 140-22 are complied with.

<sup>2</sup> See § 140-28, Residential Cluster Development Regulations.

<sup>3</sup> See Article VII, Special Use Permit and § 140-28, Residential Cluster Development Regulations.

<sup>4</sup> See § 140-4 for "boundary" definition.