

A Local Law amending Chapter 140 of the Code of the Town of Rochester

Section 1:

The following Sections of Chapter 140 of the Town of Rochester are hereby amended to read as follows:

§ 140-4 Specific Definitions. [insert additions into original law in appropriate alphabetical order]

Bedroom - The definition shall be the same as it appears in the Property Maintenance Code of New York State.

Cargo storage container - Any portable, reusable metal vessel originally, specifically, or formerly designed for or used in the packing, shipping, movement, or transporting of freight by commercial trucks, trains, and/or ships. When used for any purpose other than transporting freight a cargo container is a structure.

Campground or Recreational Vehicle (RV) Park — The development or use of a lot, tract or parcel of land for the purpose of providing a site for travel trailers, truck campers, camper trailers, motor homes, tents, park model recreational vehicles or permanent cabins of less than 500 square feet footprint size that represent less than 20% of such accommodations as are offered, that is owned and managed as a resort for camping purposes. "Campsites, "campgrounds" or "recreational vehicle parks," tent camping facilities and other similar facilities regardless whether rights to occupy a campground lot are conveyed by lease, rent, sale or any other means shall be included in this definition. Also, this definition shall include those situations where camping occurs with no specific rights of occupation offered but the use nonetheless permitted by the owner's direct or indirect action or lack thereof.

Dwelling Unit - The definition shall be the same as it appears in the Property Maintenance Code of New York State.

Existing Building or Structure – A structure erected prior to the adoption of this code, or one for which a legal building permit has been issued.

HUD – United States Department of Housing and Urban Development

ICC – International Code Council

Manufactured Home — A factory manufactured structure built to the federal Manufactured Home Construction and Safety Standards (HUD Code), transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit when affixed to a permanent foundation or placed on a concrete slab and connected to the required utilities. Manufactured home does not include a modular home or self propelled recreational vehicle.

Mobile Home - Factory-built homes produced prior to June 15, 1976, when the federal Manufactured Home Construction and Safety Standards (HUD Code) went into effect.

Park Model Recreational Vehicle (PMRV) - As defined by the Recreational Vehicle Industry Association, a trailer-type RV that is designed to provide temporary accommodation for recreation, camping or seasonal use. PMRVs are built on a single chassis, mounted on wheels and have a gross trailer area not exceeding 400 square feet in the set-up mode. They are certified by their manufacturers as complying with the ANSI A119.5 standard for recreational park trailers.

Portable storage container – A portable, weather-resistant receptacle without wheels designed specifically and used for the storage or shipment of household goods, wares, building materials or merchandise.

Railroad boxcar - A railroad car that is enclosed and generally used to carry freight. Boxcars have side doors of varying size and operation and some include end doors and adjustable bulkheads to load very large items.

Road Right-of-Way Line — The right-of-way perimeter line or plan lines of any road or street which shall establish the starting measuring point of any yard setbacks of a lot.

Short-term Transient Rental – See §140-26A

Sign — Any device, facade, fixture, material, placard or structure that uses any color, form, graphic, picture, illumination, symbol or writing to advertise, announce, declare or identify a purpose or entity or to communicate information of any kind to the public outside of a building, including neon or fluorescent painted building outlines and similar devices.

- A. Animated, Moving, or Flashing Sign — Any sign that uses movement or change of lighting to depict action or create a special effect or scene.
- B. Business, Commercial, or Institutional Identification Sign — A sign advertising a business or institution or identifying the business or profession of the owner or occupant of the property on which it is placed.
- C. Changeable Letter Sign - A sign where the supporting frame or structure is permanent and only the letters, displays or illustrations are changeable or temporary.

D. Commercial Directory — A combination, on a single structure not exceeding eight feet in height, of a sign identifying a business complex with other smaller uniform signs listing businesses on a property. Such signs shall replace freestanding signs which the advertisers would otherwise have rights to place on the property and use no more than 20 square feet in surface area on each side to identify a complex or more than 10 square feet on each side to identify a specific business or service.



E. Contractor Sign — A sign of a builder or contractor that is erected and maintained while such persons are working on a property and is immediately removed when the work is complete.

F. Digital or Electronic Message Sign - Any sign with changing text or graphics generated by electronic components advertising a product, service, or activity, public service message, time, and/or temperature.

G. Freestanding Sign — A pole sign or ground sign.

H. Ground Sign — A sign rising from a ground foundation and not over eight feet in height. The entire bottom of such sign is in contact with or in close proximity to the ground.

I. Incidental Commercial Sign — An advertising sign on which is located a simple message directed only to persons on the lot, such as a gas pump sign, credit card sign or pricing sign placed in a window or on a door.

J. Off-premises Advertising Sign — A sign advertising a business or service located off the premises on which the sign is located.

K. Pole Sign — A sign supported by a poles(s) as a structure independent of any building. Pole signs are also separated from the ground by air.

L. Portable Sign — A sign not permanently attached to the ground or a structure and designed to be transported, including signs on wheels, A or T frames or any other movable device or vehicle.

M. Real Estate Sign — A sign which advertises the availability of land, buildings or spaces within buildings as being for sale or rent.

N. Static Alpha-numeric Display Sign - A digital sign which singular function is only capable of displaying numbers and letters in static mode only. Any digital

sign which retains the same stationary message for a period of 12 hours or more shall be considered a static alpha-numeric display sign. These signs are restricted in operation, limited only to displaying gas/fuel prices at auto services stations, hotel room rates, time/temperature, or other fixed message use and can only operate for that specified purpose.

- O. Temporary Sign — A nondurable sign not intended for permanent placement, including advertising pennants.
- P. Traffic Direction Sign — An informational sign on which is located a simple traffic directive directed only to persons on the lot, such as a "no parking," "loading in rear," "one-way" or "office this way" sign.
- Q. Wall Sign — A sign painted on or attached flush with a structural wall of a building, including window signs occupying more than 50% of the window or door surface and projecting signs not extending out from the structural wall surface more than 18 inches.

Truck trailer - A portable receptacle supported at the rear by its own axles and wheels, and at the front from a tractor or dolly.

§ 140-10 Lot Development Standards.

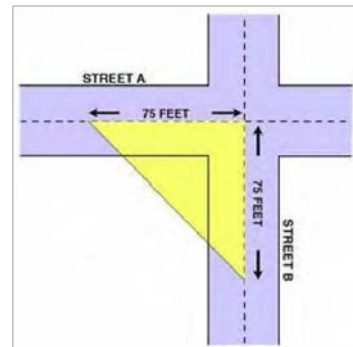
- A. Minimum development standards. The development standards contained in the Schedule of District Regulations are minimums and shall apply to each use, unless otherwise specifically provided.
 - (1) All residential use dwelling units, whether intended for primary or accessory use shall meet New York State Uniform Fire and Prevention and Building Code and ICC requirements prior to occupancy.
 - (2) Multiple permitted uses, as defined herein, are permitted on a given lot as a Special Use, provided development standards for the combined uses are met, including the combined lot area. Yard requirements shall apply to the lot perimeter in such cases, provided building separations meet New York State Uniform Fire and Prevention and Building Code requirements. Some exceptions may apply as stated in §140-10 (A)(3).
 - (3) Lot area exceptions. (See also Article 5 of this law, "Supplementary Regulations Applicable to Particular Uses", for additional lot area exceptions applicable to specific uses). For lots located in the AB-3, R-1, H, and B zoning districts, where multiple permitted uses which include a residential use are proposed in the same structure, the required lot area shall be the larger lot area required for either use as set forth in the Schedule of District Regulations. Where multiple permitted uses which include a residential use are proposed in

separate structures, the required lot area shall be the sum of the minimum required lot area for each use as set forth in the Schedule of District Regulations.

(4) Adaptive Reuse. Any applicant who proposes a project which involves the adaptive re-use of an existing building or structure shall be permitted to request a waiver from the Planning Board from any yard (setback) area, lot width, lot depth, height or lot coverage area development standards of a particular zoning district provided all the following requirements are met. In such case and area variance shall not be required.

- (a) The use proposed is one which is allowed in that zoning district.
- (b) Any new construction will not further violate any area development standard requirements.
- (c) Board of Health requirements for water and sewer can be attained.

B. Corner lots. No obstruction to vision (other than an existing building, post, column or tree) exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines 75 feet distant from their points of intersection.



C. Through lot requirements. A through lot shall be considered as having two street frontages, both of which shall be subject to the front yard requirements. Other yards shall be considered side yards.

D. Minimum lot frontage.

- (1) All lots shall have a front lot line with a minimum length of 50 feet on a public or private road either existing or proposed.
- (2) Insufficient frontage with access via shared driveway. The Planning Board may grant a waiver from required lot frontage and other street requirements of this Law upon written request and application by the developer to the Planning Board to permit a subdivision which would result in access to no more than two single-family dwellings or lots which do not have the required minimum lot frontage and are proposed to gain access from a shared driveway through the establishment of a right-of-way. The shared driveway shall be utilized by no more than a total of three single-family dwellings or lots including the lot it has access over. The Planning Board shall review such

application in the manner as prescribed under subsection § 140-10(D) (3), and no approval shall be granted unless a release has been given the Town and approved by the Town Board making clear that the Town is exempted from all responsibility for the maintenance of the same and the lots in question are not capable of being subdivided further or is so restricted. Evidence of satisfactory shared arrangements for ownership and maintenance of the shared driveway shall also be provided in the form of deed covenants and a road maintenance agreement. See also Town of Rochester Code §125-29(R)

- (3) Private road frontage. The Planning Board, in review of such Site Plan or Subdivision which has or proposes lot frontage on or has access by a private road, shall refer such application to the Town Highway Superintendent for determination as to the condition of the private road and determination if such private road meets Town standards for private roadways. The Planning Board may impose conditions of approval stating the lot in question is not capable of being subdivided further or is so restricted, may impose restrictions on the issuance of building permits, may restrict the use of such parcels to single-family residential use, may require improvements be made to an existing private road, or any other conditions determined to be in the interest of health, safety, and welfare. Private road standards in this Chapter shall be the same as those set forth in Town of Rochester Code §125-29(S);
- (4) Where any portion of access and/or infrastructure for a parcel to be developed is to be located in an adjoining municipality, final approval shall not be granted until such access and/or infrastructure is complete and approved by the adjoining municipality.

§ 140-12 Yard (Setback) Regulations.

- A. Front yard determination. The front yard setback shall be measured starting at the near edge of the road right-of-way which shall be established as follows in all cases:
 - (1) Parcels which have road frontage on a public NYS Dept. of Transportation or Ulster County Dept. of Public Works controlled roadway. The front yard setback shall be measured beginning from the lot line nearest the road as documented by the recorded survey, plat, deed, or official highway map to the satisfaction of the Code Enforcement Officer.
 - (2) Parcels which have road frontage on a public Town of Rochester controlled roadway. The front yard setback shall be measured from a point established at 25 feet from the centerline of such roadway unless otherwise documented by the recorded survey, plat, deed, or official highway map to the satisfaction of the Code Enforcement Officer.

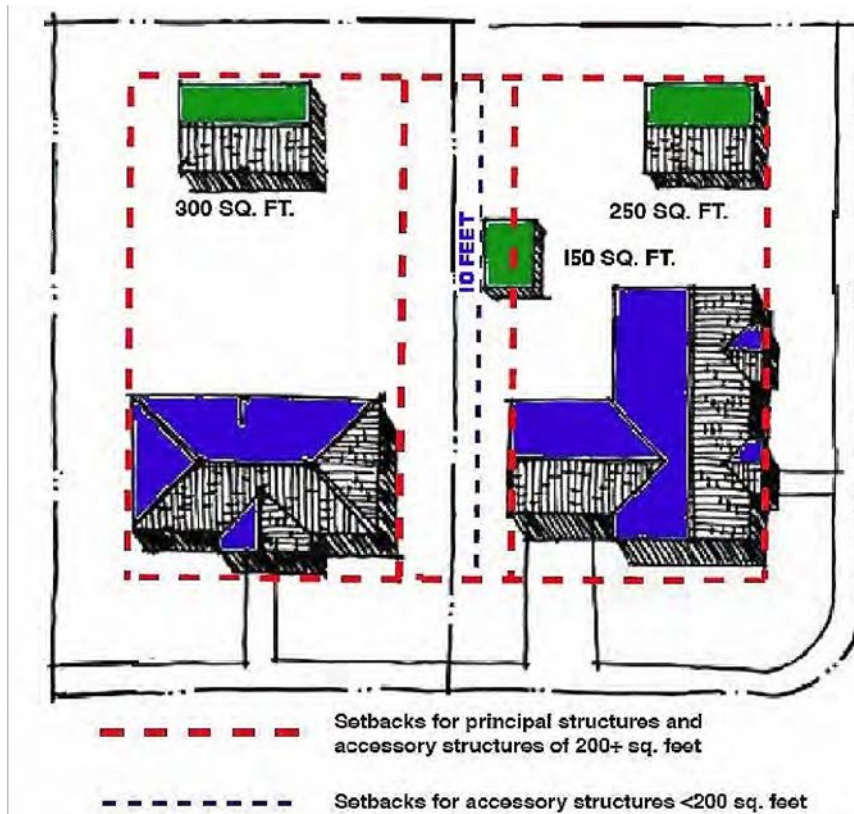
- (3) Parcels which have road frontage on a private controlled roadway. The front yard setback shall be measured beginning from the edge of the established or traveled right-of-way unless otherwise documented by the recorded survey, plat, deed, or official highway map to the satisfaction of the Code Enforcement Officer.
- (4) Parcels which have no road frontage and are accessed via a shared driveway or right-of-way. The front yard setback shall be measured from the edge of the lot line as documented by the recorded survey, plat, or deed to the satisfaction of the Code Enforcement Officer.

§ 140-13 Accessory Structures and Uses.

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

- A. No accessory building permitted by this law shall be placed in any required side or front yard (setbacks) except as provided in sub-section C below.
- B. The aggregate ground area covered by any accessory buildings in any rear yard shall not exceed 25% of the rear yard (setback) area.
- C. Accessory structures not attached to a principal structure.
 - (1) Accessory structures located in a side or rear yard and not attached to a principal structure shall be located not less than 10 feet from any side or rear lot line or in such a fashion as to prevent emergency firefighting access or to shade a residential structure on an adjoining lot. Any structure over 200 square feet in floor area shall meet setbacks for principal structures.
 - (2) Accessory structures not attached to a principal structure located closer to the street and in front of any principal structure on the lot shall have a footprint area no greater than the principal structure area, except in the case of agricultural buildings or accessory structures located more than 100 feet from the front lot line. No accessory structure may be in the required front yard setback areas, except as may be permitted elsewhere herein.

See illustration following for examples of these principles.



- D. When an accessory structure, such as a garage, carport, workshop, porch, or deck is attached to the principal building, it shall comply with requirements for principal buildings. All unattached structures shall be separated by a minimum of 12 feet or one-half the average height of the two structures.
- E. The use of cargo or portable storage containers as an accessory use in connection with a residential, agricultural, industrial, commercial or institutional use shall be permitted with permit from the Code Enforcement Officer. Railroad boxcars, truck trailers, manufactured home units and recreational vehicles shall not be used for purposes of accessory structures in connection with any use. Cargo or portable storage containers:
- (1) shall meet the setback requirements of the underlying zone.
 - (2) shall be in an approved designated area and on the same property as the principal use and be included in the calculation of overall lot coverage.
 - (3) shall be limited to 2 per parcel
 - (4) As a condition of placement, may be required by the Code Enforcement Officer or Planning Board to be fenced or screened from abutting properties

and/or rights-of-way pursuant to the provisions of the underlying zoning regulations.

- (5) shall not be stacked above the height of a single container device, except in an I zoning district with Site Plan approval by the Planning Board.
 - (6) shall not be used for any advertising purpose and shall be kept clean of all alphanumeric signage and writing. Cargo or portable storage containers shall be painted a non-reflective earth-tone color and be maintained in a condition free from rust, peeling paint and other forms of deterioration. Exception shall be made for a portable storage container which shall be a rented unit for temporary use in preparation for shipment of contents. In such case the owning company logo may be visible.
 - (7) shall not occupy required access, off-street parking, loading or landscaping areas.
 - (8) shall be used for storage only and shall not be used for human habitation and/or commercial business purposes involving occupancy.
 - (9) shall not be used to store any hazardous materials in violation of any federal, state, or local requirements.
 - (10) No permanent mechanical, plumbing, or electrical installations or connections shall be made to the storage unit.
 - (11) Any containers placed within the FEMA designated 100-year floodplain shall adhere to the Code of the Town of Rochester Chapter 81, Flood Damage Prevention, or its successors.
- F. Wind Turbines. The Planning Board may approve, approve with conditions, or disapprove small wind turbine applications designed for residential, agricultural, institutional and business use on the same parcel. Such applications shall be processed as Special Uses, but may be appropriately modified by the Planning Board to reflect the scale of the proposed facility. All small wind turbines shall comply with the following standards and, to the maximum extent practicable, with all other requirements of this law not in conflict herewith except wind turbines used to supply up to 110% of the electrical needs of any agricultural operation located within a State certified agricultural district shall be considered on-farm equipment and be exempt from these requirements, provided the equipment is located on the agricultural operation that it supplies with such electricity:
- (1) A system shall be setback from any property line by a distance no less than its height.

- (2) Small wind turbine shall be used primarily to reduce the on-site consumption of electricity.
- (3) Total heights shall be a maximum of 155 feet.
- (4) The maximum turbine power output is limited to 100 kW.
- (5) Tower-climbing apparatus shall be located no closer than 12 feet from the ground, a locked anticlimb device shall be installed on the tower or a locked, protective fence of at least six feet in height that encloses the tower shall be installed to restrict tower access.
- (6) Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines.

G. Solar Energy Structures. See § 140-37 Solar Energy

H. Fences and walls. Fences, walls, or retaining walls shall be classified as accessory structures subject to the following standards:

- (1) There shall be no minimum setback requirement, except in all cases, fences and walls shall be so constructed as to not impair the sight distance along any street or the sight triangle of a corner lot, as verified by the agency having jurisdiction over such street or the Town Highway Superintendent.
- (2) Shall not exceed a height of six feet when located in any front yard setback or eight feet when located in any side or rear yard setback in any zoning district. No fence may exceed eight feet in any case in any zoning district. Fence height shall be measured from the natural contour of the ground to the top of the fence. The addition of berms or raising of the ground to lessen fence height shall not be allowed.
- (3) The Planning Board may modify height restrictions in the case of a commercial or industrial use or in the case of a residential property which is contiguous to a commercial or industrial use upon Site Plan review and a determination that such exception will create beneficial screening and not impact neighboring properties.
- (4) The use of agricultural fences, as defined herein, shall be exempt from any height restrictions. In no event shall any such fence impede highway sight distances.

§ 140-19 Home Occupation Regulations.

- A. Home occupations are permitted in all districts subject to regulation by class.
Classifications of home occupations and limitations applicable to each follow:

Home Occupation Classifications

Class	Description	Requirements
Class I	A no-impact home-based business or commercial activity administered or conducted as an accessory use that is clearly secondary to the use as a residential dwelling and that involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use.	<ul style="list-style-type: none"> • No on-site employees other than family members residing in the dwelling • No display or sale of retail goods • No stockpiling of inventory of a substantial nature • No outside appearance of business (e.g., parking, signs or lights) • No equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, detectable in the neighborhood. • No generation of any solid waste or sewage discharge, in volume or type, not normally associated with residential use in the neighborhood • Business activity conducted only within the dwelling • Shall not occupy more than 25% of the habitable floor area or 250 square feet of floor area, whichever is less
Class II	A low-impact home-based business or commercial activity administered or conducted as an accessory use that is clearly secondary to the use as a residential dwelling and does not significantly change the character thereof, involve the use of mechanical equipment other than that customarily used for domestic purposes and involves no retail or services resulting in other than occasional and limited numbers of visitors.	<ul style="list-style-type: none"> • No more than one on-site employee other than family members residing in the dwelling • No display or sale of retail goods • No stockpiling of inventory of a substantial nature • No equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, detectable in the neighborhood. • No generation of any solid waste or sewage discharge, in volume or type, not normally associated with residential use in the neighborhood • Shall not occupy more than 25% of the habitable floor area of the dwelling or 500 square feet of floor area, whichever is less, regardless whether located in the dwelling or in an accessory structure • No display or parking of equipment or products, storage of goods or materials or signs visible from outside the building, except for a name or accessory use sign • No external evidence of the home occupation or alterations inconsistent with the residential use or appearance of the buildings
Class III	A home-based business or commercial activity administered or conducted as an accessory use that is clearly secondary to the use as a residential dwelling.	<ul style="list-style-type: none"> • No more than two on-site employees other than family members residing in the dwelling • No more than 150 square feet of floor area used for display or sale of retail goods • No stockpiling of inventory of a substantial nature • No equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, detectable in the neighborhood. • No generation of any solid waste or sewage discharge, in volume or type, not normally associated with residential use in the neighborhood • Shall not occupy more than 25% of the habitable floor area of the dwelling or 750 square feet of floor area, whichever is less, regardless whether located in the dwelling or in an accessory structure • No display or parking of equipment or products, storage of goods or materials or signs visible from outside the building, except for a name or accessory use sign • No external evidence of the home occupation or alterations inconsistent with the residential use or appearance of the buildings

- B. A Class II or III Home Occupation residential dwelling may have one non-illuminated accessory use ground sign not to exceed 12 square feet in area to identify a home occupation.
- C. No home occupation, having once been permitted or established, shall be added to, expanded, enlarged or otherwise increased or changed substantially in character without complying with this law and such permission or establishment shall not be a basis for a later application to establish a principal commercial use. Moreover, the conversion of a residence with a home occupation to a commercial

use by the abandonment of the residence or sale, rent or transfer of the business to a party that does not reside on-site is strictly prohibited unless the business is then moved offsite, unless such commercial use is a permitted use in the given zoning district.

- D. Home occupations involving the use of contractor or other heavy equipment (e.g., lawn maintenance and landscaping businesses) and similar enterprises requiring storage of materials or equipment shall provide inside storage area for all such materials and equipment. The Planning Board, may also, under site plan review, permit outside storage that is fully screened.

§ 140-21 Signs.

- A. Purpose. It is the purpose of this section to help residents and visitors find what they need without difficulty; improve the appearance of the Town; and promote public safety by regulating sign construction and placement.
- B. Application. All signs shall meet the standards herein and on the attached Schedule of Sign Regulations. Application for permits, where needed, shall be made to the Building Inspector together with any fees required. Written consent of property owners shall also be provided. Applications not requiring Planning Board review shall be acted upon within 30 days of receipt. Applications submitted to the Planning Board shall be acted upon within 45 days of receipt.
- C. Sign review criteria. Discretionary signs subject to Planning Board review shall be approved, approved with modifications or disapproved based on the following design criteria:
 - (1) Signs should not interfere with views of other enterprises, residences or signs;
 - (2) Whenever feasible, multiple signs should be combined to avoid clutter;
 - (3) Signs should be as close to the ground as possible;
 - (4) Signs should be designed, sized and located to blend with buildings and landscapes.
 - (5) Signs should be located so as to not interfere with clear views required for public safety.
 - (6) Signs should not present an overhead danger or obstacle to persons below.
 - (7) Sign sizes should achieve ready visibility without becoming an unnecessary distraction.

(8) Large freestanding signs should be landscaped around the sign base.

D. General regulations. The following regulations shall apply to all signs:

- (1) No part of any sign shall project above the top or beyond the ends of the wall surface on which it is located. Signs shall also not extend above the roof line of the building to which they are attached.
- (2) Except for official traffic signs and signs in H Districts, those signs that exceed 24 square feet in surface area shall be setback at least five feet from the front and side lot lines.
- (3) No sign shall exceed a height equal to one-half its distance from a road right-of-way, regardless of other height limitations.
- (4) Advertising signs shall not be designed in a manner that could be interpreted by a motorist as being a public safety warning or traffic sign.
- (5) No sign shall be attached to a utility pole.
- (6) Portable signs, except as provided herein, shall be subject to all freestanding sign regulations.
- (7) Traffic directional signs shall be exempt from these regulations.
- (8) Signs shall be internally lighted or illuminated only by a steady, stationary, and shielded light source directed solely at the sign, except for as provided in §140-21(E) with minimal spillover of light past the sign and without causing glare for motorists, pedestrians or neighboring premises.
- (9) Any sign located within the boundaries of the Catskill Park shall be subject to the provisions of the New York State Environmental Conservation Law.

E. Digital Sign Standards

- (1) Purpose. The Town of Rochester recognizes business owners and outdoor advertising companies appreciate digital signs because they are highly visible and allow sign owners to change messages easily and quickly. However, in general, safety experts recommend longer time intervals between sign face changes, which improve traffic safety and allow business owners and outdoor advertisers to still take advantage of some of the cost benefits of digital, variable-message advertising. Per a report for the National Cooperative Highway Research Project, "Of those research studies that have addressed driver distraction and roadside billboards, nearly every empirical study undertaken since 1995 has demonstrated that there is an adverse relationship

between distraction and digital billboards”. Limitations on brightness are also important, both for driver safety and sign effectiveness. Digital signs should be clear and easy to read, without excessive text, colors, graphics, or other features that reduce their legibility. The Illuminating Engineering Society of North America and other organizations agree that luminance (nits) is the best measure for judging relative sign brightness. Determining nit levels may be best achieved by the manufacturer. However, measuring footcandles may be less expensive and easier to do in the field if a municipality is interested in field-checking digital signs. The Town has considered these reports in establishing the standards for this section.

- (2) Two static alpha-numeric digital display signs shall be allowed per parcel. One digital sign which is not a static alpha-numeric display shall be allowed per parcel.
- (3) The character height of numbers or letters contained in a digital or static alpha-numeric sign cannot be less than 7 inches or exceed 15 inches. The background color of a digital or static alpha-numeric sign shall be black or other similar dark color.
- (4) A digital sign may not allow the display or message to change more frequently than once every eight seconds, with a transition period of one second or less. The messages portrayed shall be complete in themselves without continuation of content to the next image, display, or to another sign. Messages and transitions may not contain the appearance of motion or animation. Special effects or operational modes such as a scroll, travel and spinning actions or the use of similar transitions and frame effects that have text, graphics or images that appear to move or change in size, or are revealed sequentially rather than all at once, are prohibited.
- (5) Digital signs shall not incorporate sound or auditory components.
- (6) All digital signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.
- (7) A digital sign must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this article. Certification must be provided to the Town demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower.
 - (a) Maximum brightness levels for Digital Signs shall not exceed 5000 nits or “Candelas per Square Meter” or (cd/m²) when measured from the signs face at its maximum brightness, during daylight hours. The maximum brightness levels for Digital Signs shall not exceed 500 nits or Candelas

per Square Meter" or (cd/m²) when measured from the signs face at its maximum brightness, between sunset and sunrise.

- (b) Written certification from the sign manufacturer must be provided at the time of application for a sign permit certifying that the light intensity of the sign has been preset not to exceed the illumination levels established by this section, and that the preset intensity level is protected from end user manipulation by password protected software or other approved method.
- (c) Re-inspection and recalibration may be periodically required by the Code Enforcement Officer in his reasonable discretion to ensure that the specified brightness levels are maintained at all times. The sign owner shall be responsible for the cost of testing. When it is determined it is necessary to measure brightness digital signs shall be measured as follows:

[1] At least 30 minutes following sunset, a foot-candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.

[2] The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

[3] If the difference between the readings is 0.2 foot candles or less, the brightness is properly adjusted.

- (8) The use, size and location of digital signs must comply with all other relevant regulations and laws of the Town.

- F. Non-conforming signs. Existing non-conforming signs may be repaired or reconstructed on the same site, but shall not be relocated or increased in size except as provided herein. A non-conforming sign shall be considered a nonconforming structure.
- G. Sign maintenance. No owner of any sign or lessee or owner of any land upon which the sign is located shall permit such sign to become unsafe, unsightly or in disrepair so as to endanger the public or to become a public nuisance as shall be determined by the Town Board following referral by the Code Enforcement Officer.

- A. Purpose. With the increase in tourism over the past several years in the Town of Rochester and adjacent areas, there has been an increase in the number of property owners renting to tourists on a short term transient basis. This section imposes mandatory regulations and requirements on all Town of Rochester property owners that desire to rent on a short term transient basis. The purpose of such regulations and requirements are to assure that the properties being rented meet certain minimum safety and regulatory requirements thereby protecting the property owners, occupants of such housing and the residents of the Town of Rochester.
- B. Authorization. The Town Board authorizes the Code Enforcement Officer to process applications and issue permits to property owners to operate short term transient rental units per the provisions of this section.
- C. Definitions – As specifically apply to this subsection

Local manager - The person specifically named on the application and permit that is responsible for the day to day operation of the Short-Term Rental Unit, and who may be contacted, day or night, if there is a problem at the Unit. The local manager may be either the owner or an agent of the owner. The local manager must reside or have a personal place of business in the confines of Ulster County or within thirty (30) miles of the Town of Rochester Town Hall.

Non-resident owners - Owners that reside outside of Ulster County.

Renewal Applications - The process by which an individual who received a short term transient rental permit the previous year may apply for the short-term rental permit for the next consecutive year. A renewal application will be accepted only when the applicant can document receipt of a short term transient rental permit the previous year.

Short-term Transient Rental - The rental or lease of any dwelling unit, for a period of over thirty (30) days or less, to one entity. Any dwelling unit which is rented or leased for a period of thirty (30) days or more to individuals or families who then allow others to occupy the dwelling for periods of less than thirty (30) days shall be considered a short-term rental unit and will require a permit for such use. Motels, hotels, inns, and bed & breakfasts are excluded from this definition.

Sleeping Room - An interior room other than a bedroom having at least one operable window and furnishings that may serve to afford sleep to a person, however, sleep shall not be the primary function of the room. Examples include a living room, family room, den or great room furnished with a futon or convertible couch.

- D. Application. All property owners desiring to rent on a short term transient basis must comply with the regulations of this section. However, nothing in this section shall alter, effect, or supersede any regulations or requirements of the Town of Rochester Zoning Ordinance, any regulations or requirements imposed by the County of Ulster, or any State or Federal regulations or requirements, and all property owners must continue to comply with such regulations or requirements.
- E. Fee. A nonrefundable permit fee shall be established by resolution of the Town Board, which may be amended from time to time for each short term transient rental unit. Such permit fee shall be submitted with each new application and each annual renewal application.
- F. Application Forms. Applications for a permit to operate a short term transient rental unit shall be available from the Code Enforcement Office. Applicants must file a separate application and tender a separate application fee and obtain a separate permit for each dwelling unit to be used as a short term transient rental unit.
- G. Application Process.
- (1) The initial permit application to operate a short term transient rental unit shall be submitted to the Code Enforcement Officer along with the applicable application fee.
 - (2) The initial permit application must include the following:
 - (a) Contact information. The names, addresses and day/night telephone numbers of the property owners and local managers must be included on the application.
 - (b) Fire and safety compliance. The applicant shall attach a true and complete copy of the current and valid certificate of compliance issued by the Code Enforcement Office to the application.
 - (c) Parking. The number of off street parking spaces will be indicated on the application. Off street parking shall be provided and maintained to accommodate the occupancy of the structure, one parking space for each bedroom in the dwelling plus other parking as required in the Town of Rochester Zoning Ordinance. Vehicles shall not be parked on front lawns. There shall be no on street parking allowed.
 - (d) Occupancy. The occupancy level will be indicated on the application. The Code Enforcement Officer shall establish the maximum occupancy limit the number of occupants based on the number, size, configuration, and

furnishings of the bedrooms and/or sleeping rooms, and per the provisions of state laws.

- (e) Water and septic. The source of the domestic water shall be stated on the application and the permit. The septic system must be functioning, and the type, size, and location of the septic system shall also be stated on the application.

 - (f) Description. Either a floor plan or a brief description of each bedroom and sleeping room, including the dimensions of said rooms, occupancy of each room and the methods of ingress and egress (examples: doors and windows) shall be included with the application. The applicant shall submit a drawing of the property showing approximate property boundaries and existing features, including buildings, structures, well, septic system, parking spaces, driveways, streets and neighboring buildings within two hundred (200) feet on property directly adjacent to the applicant's property.

 - (g) Garbage Removal. The applicant shall indicate how garbage is removed from the property. If there is a dumpster located on the property, the location of the dumpster shall be depicted on the drawing submitted with the application.

 - (h) House rules. The applicant shall submit a copy of the house rules.

 - (i) Maintenance. The applicant shall indicate if lawn maintenance is to be performed and if snow is to be removed, and shall indicate the way repairs to the dwelling unit shall be maintained during the permit period.

 - (j) Jurisdiction. If a property owner does not reside or have a principal place of business in the confines of Ulster County, then he/she must designate the Local Manager, as an agent.
- (3) Upon receipt of the application and fee, the Code Enforcement Officer, then the Code Enforcement Officer shall issue the property owner a short term transient rental permit, if the applicant has fully complied with all requirements of this Section. However, if an applicant is required to obtain any other permits required by the Town of Rochester, County of Ulster or State of New York to rent or lease their dwelling unit on a short term transient basis, then the Code Enforcement Officer shall not issue the applicant a permit under this local law without sufficient proof that such other requirements imposed by the Town of Rochester, County of Ulster or State of New York have been satisfied.

- (4) Renewal permits. The applicant will provide the Town of Rochester with any changes to the original underlying application for a Short Term Transient Rental Permit, together with such additional documentation as determined by the Code Enforcement Officer, all of which will be on forms prescribed by the Code Enforcement Office, along with the current application fee. Any applicant who applies for a short term transient rental permit, and did not hold a permit for the immediate prior year, shall be considered an initial applicant and not a renewal applicant.
- H. Inspections. Each unit shall be inspected by the Code Enforcement Officer to determine fire and safety code compliance. Proof of inspection in the form of the certificate of compliance must be included with the application form.
- I. General Permit Regulations.
- (1) Copies of the permit must be displayed in the dwelling unit in a place where it is easily visible to the occupants and in a window where it is easily visible from the street.
 - (2) The permit to operate a short-term rental unit in any given year will expire on December 31.
 - (3) Rental permits for operation of a Short-Term Rental Unit may not be assigned, pledged, sold or otherwise transferred to any other persons, businesses, entities or properties.
 - (4) All short-term rental unit properties shall have posted on or about the inside of the front or main door of each dwelling unit a card listing emergency contact information. Such information shall include, but not be limited to: the name, address and phone number of the building owner, if local, or a local manager, and a second local contact person who will be available for problems/emergencies that may arise, and instructions on dialing 911 for emergency/fire/ambulance assistance. This information shall also be posted on the outside of the house near the main door or in a window where it is easily visible from the street. A local agent shall be able to respond in person within one hour.
 - (5) In all zoning districts, no person or persons may be housed separately and/or apart from the dwelling unit in any tent, trailer, camper, lean-to, recreation vehicle or nondwelling unit.
 - (6) There shall be no more cars allowed at the site than there are parking spots shown on the map.

J. Complaints

- (1) Complaints regarding the operation of a short term transient rental unit shall be in writing to the Code Enforcement Officer.
- (2) Upon receipt of a complaint of violation, the Code Enforcement Officer shall investigate to determine the presence of a violation, and upon finding to his/her satisfaction that a violation was or is currently occurring, he/she shall issue to the property owner and the local manager a notice detailing the alleged violation(s) as determined by the Code Enforcement Officer. Such notice shall also specify what corrective action is required of the property owner, and the date by which action shall be taken.
- (3) Notices required by this section shall be issued by the Code Enforcement Officer either by personal service to the property owner and/or the local manager or by certified mail to the address of the property owner and/or local manager as shown on the permit application.
- (4) If the landowner does not comply with corrective action by the date given by the Code Enforcement Officer, the Town of Rochester may initiate procedures to revoke the permit, or the Town of Rochester may begin a criminal action against the property owner or pursue any other relief permitted by law.
- (5) Any time the Code Enforcement Officer deems it to be appropriate; he/she shall refer to the Town Board any property owners whom he/she believes to be in violation of this Local Law. The Town Board shall determine whether the permit in question shall be revoked. A revocation of a permit requires a public hearing by the Town Board. The referral to the Town Board may be done in addition to any other penalties permitted by law.

K. Violations.

- (1) Any person, entity, business or corporation found to be providing short term transient rental units without a permit issued by the Town of Rochester, shall be determined to be in violation of this law.
- (2) The Code Enforcement Officer shall issue a summons to any dwelling owner that, after having been investigated for and notified of non-compliance, fails to become compliant with this Local Law by the end of the period set by the Code Enforcement Officer. In the event the health and safety of individuals is at risk, the Code Enforcement Officer shall take immediate action to rectify the violation, including but not limited to, initiating proper legal steps to discontinue the operation of said rental unit and the removal of the occupants from the premises until such time the violation is rectified.

- (3) A violation of this local law is an offense punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first-time offense.
- (4) Conviction of a second offense committed within a period of five years of the first offense, is punishable by a fine not less than three hundred fifty dollars (\$350.00) and not more than seven hundred dollars (\$700.00), or imprisonment for a period not to exceed six (6) months, or both.
- (5) Conviction of a third or subsequent offense committed within a period of five years of the first offense is punishable by a fine not less than seven hundred dollars (\$700.00) and not more than one thousand dollars (\$1,000.00), or imprisonment not to exceed six (6) months, or both.
- (6) For the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- (7) Compliance with this chapter may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction.

§140-35 Commercial Events Facilities

- A. Findings. The Town of Rochester, in an effort to encourage economic development and tourism activities, recognizes that permitted business uses such as inns, bed and breakfasts, spas, and similar enterprises may desire to derive income from the occasional use of their facilities for events.
- B. Purpose. This section of law is to ensure facilities which may not have been designed to service such special events meet the standards of health, safety, and welfare while allowing for such use upon satisfaction of specific standards
- C. Scope. Where such facilities are permitted either by right or permit, commercial on-site events such as conferences, banquets, festivals, weddings and other celebratory or educational activities shall be permitted as a Special Use subject to the standards of § 140-16 and below: The use shall be a separate use considered a multiple use, as defined herein, and shall be required to meet the sum of all development standards for the zoning district.
- D. Exemptions. Upon review of a zoning permit application by the Code Enforcement Officer where commercial event use is determined to be “regularly occurring and usually associated with such use”, approved uses such as

agricultural tourism enterprises, hotels/motels, non-profit clubs, places of worship, public buildings and parks, resorts, restaurants, taverns, or other such use shall be exempt from the requirement of a Special Use Permit and these standards but, in all cases, shall be required to meet the additional parking and health and safety requirements. In such cases, the Code Enforcement Officer is empowered by the Town Board to determine if the requirements have been satisfied and may determine Site Plan review and approval by the Planning Board to be required. A nonconforming use shall not be eligible for exemption and shall require a Special Use Permit in all cases.

- E. The facility shall submit a plan subject to Site Plan Review standards for the conduct of such events.
- F. The number of events shall be limited to a maximum of 12 events per calendar year, each day of activities counting as a separate event. If two or more separate events with different clients are held on the same day, this shall be counted as two or more events, respectively. The facility operator shall be required to notify the Code Enforcement Office of any event scheduled a minimum of 3 business days prior to the event by either e-mail or written letter. The property owner's personal nonbusiness events shall not be included in the maximum 12 events.
- G. Event hours
 - (1) Events held on Friday or Saturday shall be limited to between 9:00 am and 11:00 pm.
Setup and dismantling hours shall be limited to between 8:00 am and 12:00 midnight.
 - (2) Events held on Sunday through Thursday shall be limited to between 9:00 am and 10:00 pm. Setup and dismantling hours shall be limited to between 8:00 am and 11:00 pm.
- H. The designated portions of the property to be used for such events, including but not limited to temporary parking areas, temporary structures and sanitation facilities, shall be clearly identified on the site plan and meet applicable yard requirements.
- I. All parking for events shall be off-street and may consist of temporary parking within required yards or, by agreement, on other properties.
- J. All temporary structures and equipment must be removed within four days after each event and shall remain in place a maximum of seven days altogether, except by Code Enforcement Officer approval when the next event is scheduled within seven days of the preceding event.

- K. Applicants shall document compliance with Ulster County Board of Health and other applicable health and safety regulations.

Article 6
Nonconforming Uses and Structures

§ 140-39 Rights to Continue Nonconforming Uses.

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

§ 140-39A Definitions. As specifically apply to this subsection

Alteration - Changes made such as adding or removing windows or doors, interior renovations that do not structurally alter buildings, add living areas or result in extended or increased nonconforming use of a building, lot or structure.

Existing Building or Structure – See §140-4 Specific Definitions.

Existing Use - See §140-4 Specific Definitions.

Expansion - An extension of a pre-existing nonconforming use or structure in conformance with current applicable codes.

Nonconforming Building or Structure – See §140-4 Specific Definitions.

Nonconforming Use - See §140-4 Specific Definitions.

Reconstruction - Removal of pre-existing non-conforming building or structure followed by a complete rebuilding of building/structure outside its original footprint but within current zoning district setbacks. Vertical expansion shall be limited by height restriction for underlying zoning district.

Re-establishment - The continuation of abandoned use, building, structure or lot within required time frame as per §140-43 (B).

Replacement - The removal of pre-existing non-conforming building/structure followed by new building/structure constructed upon same or smaller footprint.

Restoration - Bringing a damaged pre-existing nonconforming building/structure up to original, pre-damage conditions.

§ 140-40 Normal Maintenance and Repairs.

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

§ 140-41 Restoration, Reconstruction or Replacement

- A. If any non-conforming use, building or structure is damaged restoration is permitted by obtaining a building permit within 18 months of the date of the damage.

- B. Reconstruction of building or structure, other than a one (1) or two (2) family residential uses , accessory uses and alterations, shall be permitted by Special Use permit.
- C. Replacement is permitted by obtaining a building permit.

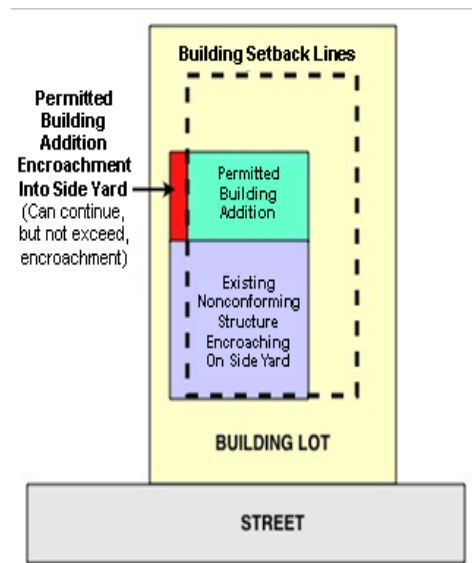
§ 140-42 Changes, Additions, and Expansions.

Excepting for by-right activities provided for in §140-40, single and two-family residential uses and accessory uses and alterations, all changes, additions, and expansions to nonconforming uses shall be considered Special Uses. Special Use Permits for expansions, reconstructions, or changes in use shall be granted only after a determination by the Planning Board that the following conditions have been, or will be, satisfied.

- A. There shall be no expansion in the amount of land area outside a non-conforming facility (outdoor area) used for storage of materials, supplies and/or products, except as provided herein.
- B. Where the non-conforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a lumberyard), the Planning Board may require dense evergreen screening sufficient to shield all such materials from the view of adjacent landowners and/or the traveling public.

- C. No addition, change or expansion of a nonconforming use shall further violate setback and/or height regulations of the district in which it is located, however a nonconforming single or two-family residential use shall be granted an exception from this requirement upon receipt of an area variance from the Zoning Board of Appeals.

- D. There shall be no increase in the amount of storm water runoff for the site over what was existing as of the date of the enactment of this law. The U.S.D.A. Soil Conservation Service, a Professional Engineer or other appropriate professional may be relied upon to recommend appropriate measures to control storm water runoff. Such measures shall be attached as conditions of approval by the Planning Board.



- E. In no case will a change, addition or extension of a non-conforming use be allowed that would result in a traffic increase that would decrease the Level of Service for the highway, the diversion of traffic closer to a nearby residence or a reduction of any of the parking and unloading requirements of this law where additional parking or loading would otherwise be required due to the change, addition or expansion. If the total number of parking spaces for the site is to be increased more than 25% over those available as of the date of this law, the Planning Board may require vegetative screening of the parking area from nearby residential areas.
- F. The use may only be expanded or extended onto another property of record with written owner's permission, which shall be demonstrated by a deed recorded in the Ulster County Clerk's Office; that property is immediately adjacent to the lot on which the original use was located as of the effective date of this law or amendments hereto and the use is not one which has been altogether prohibited as a new use under this law.
- G. Should the use proposed for expansion or extension be one which is specifically prohibited as a new use in the Town or is determined by the Planning Board to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this law, the requested expansion or extension shall be denied.

§ 140-43 Abandonment and Re-establishment

- A. A non-conforming use, building or structure shall be considered abandoned under any one of the following circumstances:
 - (1) The intent of the owner to discontinue the use is made obvious by the posting of signs, boarding up of windows, failure to pay taxes or assessments or other measures which demonstrate the enterprise is going out of business or the use is otherwise ending; or
 - (2) A residential dwelling has not been resided in for 24 months or more and the building shows signs of deterioration as defined in §66-3 Town of Rochester Code; or
 - (3) A commercial building or structure has not been occupied or use not exercised or the equipment and furnishings used in furtherance of the non-conforming use have been removed from the premises for 24 months or more; or
 - (4) The non-conforming use has been replaced by a conforming use or changed to another use under permit from the Town.

- B. The Building Inspector, upon determining any of the above circumstances exist, shall, by certified mail, so notify the property owner of record, informing the owner the use, building or structure is considered abandoned. If an owner cannot be reached through the mail, the Building Inspector shall publish the notice once in a newspaper of general circulation in the Town and/or post the property for a minimum of one week, and the owner shall be presumed to have been notified.
- C. An owner may seek to re-establish the use, building, or structure within a period of 6 months after notification of abandonment by sending certified mail to the Building Inspector and demonstrating that steps have been taken to re-establish the use, or provide proof that steps have been taken to reverse the evidence of abandonment.
- D. The Town Planning Board may, subject to Site Plan Review, permit the re-establishment of an abandoned use where the structure is particularly suited to such use and difficult to adapt to other conforming uses, provided the use has not been abandoned for more than two years.

§ 140-44 Use of Existing Non-Conforming Lots of Record.

- A. A principal structure may be erected on any non-conforming lot of record existing at the time this Law is enacted provided no front yard is reduced in size and no side yard is reduced to less than 50% of the requirement for the district in which it is located or 20 feet, whichever is greater, and a sewage disposal system meeting New York State standards, including well and septic isolation distances, can be placed on the lot should public facilities be unavailable.
- B. Accessory structures placed on non-conforming lots of record after the effective date of this law shall comply with Section 140-13 of this Law, Accessory Structures and Uses.

Section 2: Appendix A Schedule of District Regulations shall be amended as follows:

- Add the use Short Term Transient Rentals as an Accessory Use in all zoning districts
- Delete the use Commercial Events Facilities as a Special Use in the R-1 and R-2 zoning districts
- Delete the use Mixed-use activities pursuant to §140-10 as a Special Use in the AB-3, R-1, H, and B zoning districts

Section 3: Severability

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision.

Section 4: Effective Date

This law shall become effective immediately upon filing in the office of the Secretary of State of the State of New York.