

Local Law K of 2022

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

Article VII Special Use and Site Plan Review Procedures

§ 140-45, § 140-45.1, § 140-46, § 140-47, § 140-48, § 140-49, § 140-50, § 140-51, § 140-52, § 140-53, § 140-54, § 140-55, § 140-56, § 140-57, and § 140-58

Section 1. § 140-45, Review of Applications

Existing subsection **§140-44.1, Applications**, shall be renamed **§140-45, Applications**

Section 2. § 140-45.1, Sketch Plan

Subsection **§ 140-45, Sketch Plan**, shall be renamed subsection **§ 140-45.1, Sketch Plan**, and amended as follows

§ 140-45.1 Sketch Plan

- A. An applicant for a special use permit or site plan review shall submit a sketch plan as a minimum prerequisite for special use review and advice by the Planning Board. The Planning Board may also require the submission of such a sketch plan or alternate sketch plans depicting different development concepts for a property. Such a sketch plan should provide locations and dimensions of the proposed use in relation to the property boundaries and adjacent uses. It should also indicate all accesses and improvements both existing and proposed and any site features or known environmental constraints that could have a bearing on the project including the general topography and existing ground cover. Aerial photography may also be required.
- B. Should such sketch plan involve one-time additions of no greater than 10% or a maximum of 200 square feet of floor area or accessory uses or structures, the Building Department may review and approve the sketch plan on its own during the building permit process.
- C. If these thresholds are exceeded, however, the sketch plan shall be referred to the Planning Board. If referred to the Planning Board, this sketch plan shall be used by the Board as a basis for advising the applicant regarding information it shall require on the site plan before it conducts a public hearing or takes any action with respect to the plan. The Planning Board shall give no approval or disapproval regarding any sketch plan but may use it to schedule a public hearing if sufficient data is available, determine if any provisions of this article should be waived or begin its review of the application under the New York State Environmental Quality Review Act (SEQRA).

Section 3. § 140-46, Application and site plan required

Subsection § 140-46, **Application and Site Plan Required** shall be amended as follows

§ 140-46, Application and Site Plan Required

The Planning Board shall be under no obligation to schedule a public hearing or take any action with respect to a special use or site plan review permit application until formal application has been made on forms provided by the Planning Board and a detailed site plan providing the following information has been submitted:

A. The site plan shall include:

1. Aerial photo base map with site plan overlay. Aerial photos at a minimum of 50 cm resolution showing existing conditions shall be provided such as but not limited to aerial photos obtainable on Ulster County Parcel Viewer, NYS DEC Natural Resources Mapper, Google Earth, or others. (may be obtained free of charge online from several sources).
2. The location of all existing watercourses, wooded areas, rights-of-way, roads, structures or any other significant man-made or natural feature, if such feature has an effect upon the use of said property, including, where practical, significant features within 200 feet of the property.
3. All known natural resource restrictions, floodplains, wetlands, ecologically sensitive areas, etc., extending beyond the project boundaries a distance of 200 feet.
4. Where there is evidence of a potential or existing wetland, an Ulster County Core Habitat, or other ecologically significant lands the Planning Board may require a wetland delineation or habitat study to determine the exact boundaries and to evaluate potential impacts of development on said wetlands or ecologically significant lands.
5. The location, use and floor or ground area of each proposed building, structure or any other land use, including stormwater management, sewage disposal and water supply systems.
6. The location of all significant landscaping and ground cover features, both existing and proposed, including detailed planting plans and a visual depiction or rendering of the final appearance of the property after all landscaping and other physical improvements are completed.
7. The location, dimensions and capacity of any proposed roads, off-street parking areas or loading berths, including typical cross-sections for all paving or regrading involved.
8. The location and treatment of proposed entrances and exits to public rights-of-way, including traffic signals, channelizations, acceleration and deceleration lanes, widenings or any other measure having an impact on traffic safety conditions.
9. The location and identification of proposed open spaces, parks or other recreation areas.
10. The location and design of buffer areas and screening devices to be maintained.

11. The location of trails, walkways and all other areas proposed to be devoted to pedestrian use.
 12. The location of public and private utilities, including maintenance facilities.
 13. The specific locations of all signs existing and proposed, including a visual depiction of the latter.
- B. Preliminary architectural plans for the proposed buildings or structures, indicating typical floor plans, elevations, height and general design or architectural styling. Lighting plans and details shall also be required.
 - C. A completed SEQRA environmental assessment form
 - D. Topography of the site using two-foot contour intervals unless otherwise specified by the Planning Board,
 - E. Detailed grading plans, and stormwater pollution prevention plans as required herein, where significant land disturbance is proposed. A survey map and/or grading plan may be required to accurately depict property lines, easements and grade changes where determined necessary by the Planning Board.
 - F. A map and report detailing the proposed conveyance, storage, distribution, generation, use, treatment or disposal of any stormwater and sewage including an estimate of the total daily flows. An application for any proposed use with projected on-site sewage disposal flows averaging 2,000 gallons or more per day during any single thirty-day period shall include a hydrogeological report prepared by a qualified hydrogeologist or engineer.
 - G. A written description of the project including all of the activities proposed on the site, number of employees if relevant, how the project meets the zoning requirements, particularly design guidelines, landscaping requirements and storage of hazardous materials.
 - H. The stormwater pollution prevention plan (SWPPP) if required. GPS (global positioning system) reference data for stormwater outfalls and permanent structures built in accordance with New York State Stormwater Management Design Manual shall be required on all site plans.
 - I. An agricultural data statement, if applicable.
 - J. The location of historic properties, structures, or districts within 500 feet of the site.
 - K. Wetlands as mapped by the New York State Department of Environmental Conservation and the Army Corps of Engineers, including any soils identified as hydric.
 - L. The site plan shall contain blank approval blocks for the Town Planning Board stamp and signatures on every sheet of the set of plans. table of plan changes, and dates and a block for map notes.
 - M. Any other information required by the Planning Board that is clearly necessary to ascertain compliance with the provisions of this chapter (e.g., site plan review or special use checklists) and limited to such information.

Section 4. § 140-47, Waivers

Subsection § 140-47, Waivers, shall be amended as follows:

§ 140-47, Waivers

The Town of Rochester Planning Board shall, pursuant to § 274-a(5) of the Town Law, have the right to waive, when reasonable, upon written request of the applicant, any of the procedural or submittal requirements of this article for the approval, approval with modifications or disapproval of special use permits and site plans submitted for approval. Such waiver and the reasons therefore shall be recorded in the minutes of the Planning Board. This waiver authority may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare or are not applicable to a particular site plan. Any such waiver shall be subject to the following conditions:

- A. No waiver shall result in allowing a use not permitted within the applicable zoning district.
- B. No waiver shall be given with respect to standards outside the scope of this article which would otherwise require a variance from the Zoning Board of Appeals, except in the case of the adaptive reuse of a building or structure.
- C. Waivers shall be limited to those situations where the full application of the requirements contained herein would generate unnecessary data with regard to deciding the matter at hand, due to the scope or nature of the project involved. The proposed enclosure of a deck or a simple change of use with no significant structural modifications in the case of a commercial property, for example, might not require typical cross-sections for proposed regrading or water supply data.
- D. An applicant for site plan approval who desires to seek a waiver of certain of the above-referenced requirements pertaining to such applications shall submit a preliminary site plan as provided above. The Planning Board shall review the preliminary site plan, advise the applicant as to potential problems and concerns and determine if any additional site plan information is required. The Planning Board shall consider such site plan as adequate when, in its judgment, the information submitted is sufficient to make a determination of compliance with the development standards contained herein and the intent of site plan review criteria found below.
- E. The Town of Rochester Planning Board, following a public hearing in conjunction with other matters before the Board, shall be permitted to modify the standards of this chapter to the extent of 10% of the stated criteria where the circumstances otherwise meet the tests for an area variance as set forth herein. Such modifications shall also be permitted for the purposes of increasing the efficiency with which buildings and their sites use and harvest energy, water, and materials; and reducing building impacts on human health and the environment, through better siting, design, construction, operation, maintenance and removal during the complete building life cycle; otherwise known as energy efficient building.
- F. The Town of Rochester Planning Board, following a public hearing in conjunction with other matters before the Board, shall be permitted to modify the standards of this chapter to the extent of 15% of the stated criteria where the Planning Board determines following public input that protection the health safety and welfare of the public and implementation of the goals of the Comprehensive plan merit additional protections beyond those provided elsewhere within Chapter 140.

G. Nothing herein shall authorize the Planning Board to waive State Environmental Quality Review requirements.

Section 5. § 140-48. Hearing and decision., § 140-49. Modifications and conditions., § 140-50. Referrals., and § 140-51. Appeals.

Subsections **§ 140-48. Hearing and decision., § 140-49. Modifications and conditions., § 140-50. Referrals., and § 140-51. Appeals.** shall remain as exist, currently

Section 6. § 140-50. Referrals.

Subsections **§ 140-50, Referrals** shall be amended as follows

§ 140-50, Referrals

The Planning Board is authorized to refer special use permit applications and site plans to other agencies, groups or professionals employed or used by the Town for review and comment and to charge the applicant reimbursement fees for any reasonable expenses connected therewith. The Board shall, in particular, ensure that the requirements of § 239-m of the General Municipal Law regarding review by the Ulster County Planning Department are met. Where required by General Municipal Law § 239-nn, notice shall be given to adjacent municipalities. It shall also comply with all requirements of the New York State Environmental Quality Review Act.

Section 7. § 140-51. Appeals.

Subsections **§ 140-51. Appeals.** shall remain as exists, currently

Section 8. § 140-52, Effect of site plan and special use approval.

Subsection **§ 140-52, Effect of site plan and special use approval.,** shall be amended as follows.

§ 140-52, Effect of site plan and special use approval.

- A. The site plan and/or special use permit as approved by the Planning Board shall be binding upon the applicant. Any changes from the approved plan, except as provided herein, shall require resubmission and reapproval by the Planning Board.

- B. The site plan and/or Special Use shall remain effective, as an authorization to establish the use, for a maximum of one year from the date of approval. The Planning Board shall have the authority to grant an extension within the one-year time frame in writing, provided the applicant has diligently pursued the implementation of the plans. Such extensions shall be granted in 6-month increments up to a maximum of 4. Absent such an extensions, the site plan and/or special use shall be deemed to have expired.
- C. A special use which has been discontinued or not been exercised, as defined in §140-43 of this chapter, for a period of two or more years shall also be deemed to have lapsed without hearing or notice.

Section 9. § 140-53. Renewal of permits. and § 140-54. Conformity with other plans, laws and ordinances.

Subsections **§ 140-53. Renewal of permits. and § 140-54. Conformity with other plans, laws and ordinances.** shall remain as exist currently.

Section 10. § 140-55, Special use review criteria.

Subsection **§ 140-55, Special use review criteria.** shall be amended as follows

§ 140-55, Special use review criteria.

The Planning Board, in acting upon the special use, shall also be approving, approving with modifications or disapproving the site plan application connected therewith, taking into consideration not only the criteria contained above but also the following special use criteria:

- A. Whether the proposed use will have a detrimental or positive impact on adjacent properties or the health, safety and welfare of the residents of the Town of Rochester.
- B. If the proposed use is one judged to present detrimental impacts, whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.
- C. Whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation.
- D. Whether the granting of an approval will cause an economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies and firefighting capabilities. The applicant shall be responsible for providing such improvements or additional services as may be required to adequately serve the proposed use and any approval shall be so conditioned. The Town shall be authorized to demand fees in support of such services where they cannot be directly provided by the applicant. This shall specifically apply to, but not be limited to, additional fees to support fire-district expenses.

- E. Whether the site plan indicates the property will be developed and improved in a way which is consistent with that character which this chapter and the Town's Comprehensive Plan are intended to produce or protect, including appropriate landscaping and attention to aesthetics and natural feature preservation.
- F. Whether the proposed use has an adequate water supply in terms of quantity and quality to meet the specified needs.

Section 11. § 140-56, Bonding of site improvements.

Subsection § 140-56, Bonding of site improvements., shall remain as exists currently

Section 12. § 140-57 and § 140-58, Reserved

Subsections § 140-57 and § 140-58 shall remain unused as reserved for future use.

Section 13. 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 directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

Section 14. Effective Date

This local law shall become effective immediately upon the filing in the office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law