

Local Law Q of 2022

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

§ 140-10. Lot development standards.

Section 1. Chapter 140 Amendment

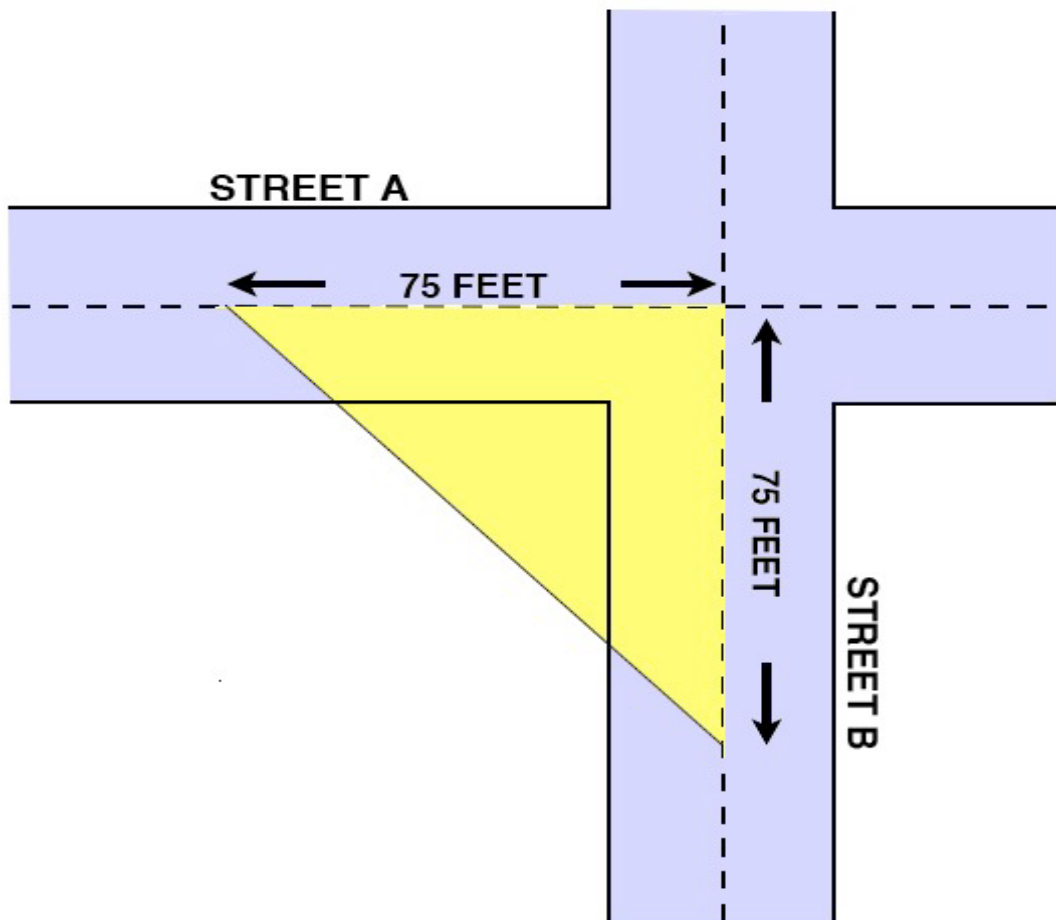
Chapter 140 of the Code of the Town of Rochester § 140-10. Lot development standards. shall be deleted in entirety and replaced as follows.

§ 140-10. Lot development standards.

- A. All structures, inclusive of residential use dwellings--unless specifically deemed exempt by this code--whether intended for primary or accessory use shall meet New York State Uniform Fire and Prevention, Building Code, and ICC requirements prior to occupancy.
- B. 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. For all lot development, the referred municipal agencies shall use the guidelines set forth in the Ulster County Community Design Manual, and its revisions as adopted in 2018 by Ulster County Planning Board in their review.
 1. 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 setback requirements shall apply to the lot perimeter in such cases, provided building separations meet New York State Uniform Fire Prevention and Building Code requirements. Some exceptions may apply as stated in §140-10 (B)(2)]
 2. Lot area exceptions. (See also Article V of this chapter, 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 as defined herein are proposed as defined herein, is 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 mixed use, as defined herein, is 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. For lots located in the A-10 zoning district where multiple permitted uses which include a residential use are proposed in the same or separate structures the required lot area shall be the larger lot area required for either use as set forth in the Schedule of District Regulations.
 3. Lots in the Lots in the R-1, H, B and AB-3 zoning districts shall be eligible for a density bonus of 1.5X the standard lot density for green energy/energy conservation/passive house development upon Planning Board review. Lots shall be subject to all zoning district setback standards. The Planning Board shall certify the development incorporates sufficient energy conservation measures such as, but not limited to: LEED net zero construction, geothermal (ground source heat pump) or passive solar heating, and natural habitat preservation.
 4. Lot development shall provide driveway access to buildings on such lots from an approved street in accordance with Section §140 - 17 Parking, loading access and traffic standards and Town of Rochester, NYS DPW or NYS DOT Road Specifications.

5. Lot development of parcels with total land disturbance of 7,500 square feet or greater (inclusive of all structures, access driveway(s), septic, and all other land clearing) shall require site plan approval. All agricultural lot development shall be exempt.
6. Lot development of parcels containing steep slopes. Site Plan review shall be required when developing, regrading, or stripping land slopes equal or greater than 15%. On slopes between 15% and 25%, no more than 15% of the slope area may be disturbed. No site disturbance shall be allowed on slopes exceeding 25% grade, except grading for a portion of a driveway accessing a single-family dwelling when it can be demonstrated that no other routing that avoids slopes exceeding 25% is feasible.
7. A hydrogeological study shall be required for any proposed development project with onsite groundwater withdrawals and/or on-site sewage disposal flows potentially equal to or exceeding an average of two thousand (2,000) gallons per day (gpd) during any single thirty (30)-day period or for sites identified and included in the in AP Overlay District, or identified as Low Well Yield Areas in the NYRWA GroundWater Protection Plan of 2006 as a part of the site plan review or zoning permit application process.
8. The following non binding guidelines shall be considered in the siting of structures in lot development.
 - a. Wherever feasible, retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls. (This is not appropriate where reuse of a road would require widening in a manner that destroys trees or stone walls.)
 - b. Preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.
 - c. Avoid placing buildings in the middle of open fields. Place them either at the edges of fields or in wooded areas. Septic systems and leach fields may be located in fields.
 - d. Use existing vegetation and topography to buffer and screen new buildings if possible, unless they are designed and located close to the road in the manner historically found in the Town. Group buildings in clusters or tuck them behind treelines or knolls rather than spreading them out across the landscape.
 - e. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.
 - f. Site buildings so that they do not protrude above treetops and crestlines of hills as seen from public places and roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.
 - g. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multilevel structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat.

- h. Minimize land disturbance generally. Whenever development is undertaken, removal of vegetation, grading, and operation and storage of heavy equipment should only occur where necessary for the proposed development. Special attention should be given to preserving the root systems of existing trees by avoiding soil compaction within their drip lines.
9. Protected resource areas on parcels should be linked. Waterbodies, freshwater wetlands, and streams should be adequately buffered. [See Yards, waterfront yards and §140-16 Wetlands and Stream Buffers of this code for further regulations].
10. Adaptive reuse. Any applicant who proposes a project which involves the adaptive reuse 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, an 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.
- C. 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. **The Planning Board may impose higher standards where necessary to deal with grade limitations that would otherwise limit the beneficial impact of these measures.**



- D. Through lot requirements. A through lot shall be considered as having two street frontages that do not intersect, both of which shall be subject to the front yard requirements. Other yards shall be considered side yards.
- E. Minimum lot frontage.
1. All lots in the R-1, and H zoning districts shall have a front lot line with a minimum length of 25 feet on a public or private road either existing or proposed.
 2. All lots in the R-2, AB-3, B, and AR-3, zoning districts shall have a front lot line with a minimum length of 50 feet on a public or private road either existing or proposed.
 3. All lots in the PL-10, A-10, R-5, I, and NR zoning districts shall have a front lot line with a minimum length of 75 feet on a public or private road either existing or proposed.
 4. Insufficient frontage with access via shared driveway. The Planning Board may grant a waiver from required lot frontage and other street requirements of this chapter 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. No shared driveways shall be permitted originating from a private road cul-de-sac. 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 § 140-10E(5), and no approval shall be granted unless a release has been given to the Town and approved by the Town Board making clear that the Town is exempted from all responsibility for the maintenance of the same. The lots in question shall not be capable of being subdivided further or are 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 § 125-29R.
 5. Private road frontage. The Planning Board, in the review of a 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 § 125-29S.
 6. 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.
- F. Flag lots. The development of interior lots with limited lot frontage consisting of only an access ~~strip~~ ~~right-of-way~~ shall be permitted provided:
1. That the controlled use of a flag lot permits reasonable use of a parcel to be subdivided without adverse environmental impact or in contravention of the public health, safety and welfare of the community.

2. That for reasons of topography, landform, remoteness of location, and existing lot pattern of unusual size or shape of a parcel, there is no reasonable or practical alternative to creating a flag lot.
3. That the creation of a flag lot will result in the preservation of natural scenic resources and the protection of open space, biodiversity resources, surface water resources, and view sheds.
4. That the basis for the formation of a flag lot must not be to circumvent the need for the construction of a road.
5. The minimum flag lot road frontage for a zoning district shall be as specified in section§ 140-10E (1), (2) and (3).
6. The access strip utilized for flag lot access shall be a maximum of 500 feet in length and shall maintain the minimum lot frontage (road frontage) width for a zoning district for the entirety of the access strip length.
7. Flag lots shall not be permitted in the PL-10 zoning district.
8. At all times a clear right-of-way of at least 20 feet in width for the access driveway shall be maintained within the access strip to permit vehicular travel from the public road to the principal structure, and the minimum driving surface shall be 16 feet in width and shall be sufficient to provide suitable access, ingress and egress for emergency vehicles. The Planning Board may vary, modify or waive the width of the access driveway upon written request by the applicant where specific unique conditions, in the opinion of the Planning Board, merit such consideration
9. The maximum driveway grade for a flag lot shall be 10%.
10. Minimum lot area. The minimum area of a flag lot shall be the lot size required for the applicable zoning district. The buildable portion of a flag lot is the rear portion of the lot and shall be considered the "flag," which does not include the portion of the lot that is the access strip or "flag pole" of the flag lot. The area of the flag pole shall not be included in the calculation of the required minimum lot area for the flag lot.
11. No ~~access strip right-of-way~~ shall be established over an existing parcel of land to reach a new lot to the rear which would reduce the length of the front lot line of the existing parcel to less than the minimum lot width for the applicable zoning district.
12. All flag lot access ~~strips rights-of-way~~ shall be titled in fee-simple ownership to the flag lot property owner and shall not be used to access any property not part of the original tract, provided that the Planning Board may waive this limitation to accommodate one adjoining lot for purposes of reducing additional curb cuts.
13. Such flag lot owner shall bear responsibility for maintenance of the improvements. A road maintenance agreement (RMA) approved by the Town Board shall be required and included on the plat. ~~The maintenance agreement shall be filed with the Ulster County Clerk by the applicant immediately upon final approval of the subdivision.~~

14. No more than one ~~such~~ flag lot shall be created from an existing parcel. The total allowable number of lots in a subdivision using a flag lot is 3 lots. No more than two lots shall be accessed from the access strip driveway, including the lot fronting on the right-of-way street, if it is accessed from the same driveway as the rear lot. A cumulative total of three lots including the original lot shall be permitted when a subdivision of an existing parcel uses and creates a flag lot on an existing parcel. This restriction shall be incorporated in deed covenants and placed on the recorded plat map at the time any flag lot is created.
15. All front, side and rear yard (setback) regulations shall be maintained in the primary building area and the access strip "flag" portion of the flag lot in conformance with 140-12 and the Schedule of District Regulations.



- G.** Conversions of seasonal residential communities. Existing seasonal residential communities may be converted to permanent single-family, two-family or multifamily dwellings subject to the following standards:
1. Such applications shall be processed as special uses and also be subject to the applicable provisions of the Town of Rochester Subdivision Regulations.
 2. Multifamily conversions shall fully meet all the standards of §140-26 multifamily residential uses. General guidelines from §140-26: “such projects shall be considered major subdivisions and require both special use and subdivision approval; however, the application fee for subdivision review shall be waived. This "major subdivision" classification shall apply to all subdivisions of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision”.
 - a. Multifamily dwellings conversions shall be allowed in the AB-3, R-1, R-2, H, and B Zoning Districts. Such projects shall be considered major subdivisions and require both special use and subdivision approval.
 - b. Multifamily dwelling density in the B, H, and R-1 Zoning Districts shall not exceed twice the number of dwelling units per acre permitted under the Schedule of District Regulations.

- c. Multifamily density in the AB-3, and R-2 Zoning Districts shall not exceed the number of dwelling units per acre permitted under the Schedule of District Regulations.
3. The number of new dwellings permitted shall be limited to 50% of existing seasonal residential units in the case of new single-family dwellings, 65% of existing seasonal residential units in the case of new two-family dwellings and 80% of existing seasonal residential units in the case of new multifamily dwellings, provided that any such property shall be entitled to no less density than would otherwise be permitted within that zoning district for a new use of the same nature.
 4. New dwellings and other improvements shall not further violate any lot development standards of the zoning district in question along a given property line.
 5. All sewage and water supply systems for any such conversion shall meet current standards. Existing systems intended for reuse shall be inspected and certified as meeting current standards by a professional engineer and approved by the Town of Rochester. Should the conversion project be located on the Town of Rochester public sewer system and involve increased sewage flows, a certification from the Town Sewer District that adequate capacity exists to serve the new project shall be required.

Section 2. 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 3. 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.