

Local Law R of 2022

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

§ 140-15. Landscaping Standards

Section 1. Chapter 140 Amendment

Chapter 140 of the Code of the Town of Rochester § 140-15. Landscaping Standards shall be amended as follows.

§ 140-15. Landscaping Standards

- A. The Planning Board shall, to assure an acceptable buffer between adjacent residential and nonresidential uses and to create a healthy, safe, and aesthetically pleasing environment in the Town, require a landscape plan be prepared as part of any site plan review or special use application. Such a plan shall also be required whenever any nonresidential use is proposed in any district so as to buffer parking areas and buildings from the highway, each other and from other uses. The landscape plan shall preserve existing features which would add value to residential development or to the Town as a whole, such as trees, wetlands, watercourses and falls, historic structures, scenic views, and similar irreplaceable assets. These features shall be preserved through harmonious design of a site plan or subdivision. Where it is determined a proposed use is naturally buffered or would not have a significant impact on the natural environment, adjoining landowners or the view from a public highway, these requirements may be modified by the Planning Board to fit the circumstances.
- B. The landscape plan shall specify the number, locations, sizes, and species of all existing and proposed mature shade trees or other species of six-inch caliper or greater and indicate existing vegetation to be removed or preserved. No tree of six inches or more diameter at 4 feet from the ground shall be removed, nor any change of grade of the land affected until approval of the final plat has been granted. Removal of invasive species, as defined by the NYS DEC, shall be always permitted during the application process upon approval by the Planning Board. All trees on the plat required to be retained shall be preserved, and all trees, where required, shall be welled, and protected against any change of grade. and the plat shall further indicate all trees marked for retention and the location of all proposed shade trees.
- C. The landscape plan shall demonstrate how building materials, colors and textures will be blended with the natural and man-made landscape. It shall also include visual depictions of the proposed landscape from the perspective of persons who will view the site from the highway or adjoining properties. Specific locations, varieties, sizes, winter hardiness, and schedules for all proposed plantings shall, too, be provided as part of the plan.
- D. The Planning Board, in reviewing a landscape plan, may employ the assistance of design professionals. The Planning Board shall also specifically consider the following before approving, approving with modifications, or disapproving the site plan or special use:
 - 1. The plan should promote attractive development, preserve existing trees, vegetation, and unique site features, (such as stone walls and rock formations or historical features), to the maximum extent possible, enhance the appearance of the property; and complement the character of the surrounding area.

2. The plan should use landscaping to delineate or define vehicular and pedestrian ways and open space.
 3. The plant material selected should be of complementary character to buildings and structures. Native plant species shall be preferred and be of sufficient size and quality to accomplish their intended purposes. Invasive species shall be prohibited. **A list of reference invasive species is found at the NY State DEC list of prohibited and regulated invasive species and the Cornell Cooperative Extension of Ulster County Invasive Plants.**

https://www.dec.ny.gov/docs/lands_forests_pdf/isprohibitedplants2.pdf
[http://ulster.cce.cornell.edu/environment/invasive-plants.](http://ulster.cce.cornell.edu/environment/invasive-plants)
 4. The plan should effectively buffer the activity from adjoining land uses as may be necessary and soften the impact of other site development as contrasted with the natural environment.
 5. The plan should be realistic in terms of maintenance and use materials which, as a minimum, are winter hardy to Zone 4.
 6. Consideration and determination of the adequacy of the above plan requirements are at the Planning **Board's Boards** discretion.
- E. Landscaping guidelines. The following minimum specifications **shall be applied by are-suggested guidelines** the Planning Board **should apply** when new landscaping is required:
1. The minimum branching height for all shade trees **shall should** be six feet.
 2. Shade trees **shall should** have a minimum caliper of **six-three** inches (measured four feet above grade) and be at least 12 feet in height when planted.
 3. Evergreen trees **shall should** be a minimum of six feet in height when planted.
 4. Shrubs **shall should** be a minimum of **36 24** inches in height when planted. Hedges shall form a continuous visual screen within two years after planting.
 5. A buffer screen (vegetative, fencing or a combination of both) at least **20 45**-feet in width along any residential lot line **shall should**-be provided. It may include an opaque wooden stockade fence up to **eight-six** feet in height and on **average one** evergreen tree for every 15 linear feet of property line. An additional row of evergreens meeting these standards and offset such that each row serves to place trees between the gaps of the other **evergreens or an alternative suitably buffering landscaping arrangement, shall should** be permitted as a substitute for the stockade fence **upon Planning Board approval.**
 6. A landscape strip at least **20 45** feet in width that includes at least one deciduous tree for every **25 35** linear feet of perimeter lot line **shall should** be required for any nonresidential use. Such deciduous trees **shall should** also be accompanied by smaller shrubs and ground cover as may be required to effectively separate and buffer the activity from the highway but still allow for visibility of the use. The width of this buffer may be reduced along the rear and side lot lines for good cause, but not along the front lot line.

7. All lot areas (except where existing vegetation is preserved) shall ~~should~~ be landscaped with grass, ground cover, shrubs, or other perennials/appropriate plant material ~~other appropriate cover~~, with a preference for native and pollinator supporting species.
8. The preservation of mature shade trees shall be required unless there is no alternative but to remove them. Any shade tree identified intended to be saved shall be properly fenced to protect the root zone from the impact of vehicle traffic, construction, and other activities. Existing shade trees that may be preserved may be used to meet requirements of this section provided the Building Inspector or Planning Board determines the purpose of this section is achieved.

~~The preservation of mature shade trees should be required unless there is no alternative but to remove them. These may be used to meet requirements of this section provided the Building Inspector or Planning Board, as the case may be, determines the purpose of this section is achieved. Any shade tree intended to be saved must be cordoned off with construction fence to protect its root zone from use and impacts of vehicle traffic and other work zone activities~~

9. Landscaping, trees, and plants shall be planted and maintained in a healthy, growing condition according to accepted horticultural practices. Any landscaping, trees, and vegetation which are in a condition that does not fulfill the intent of these guidelines shall be replaced by the property owner during the next planting season for the specific plant material.
 10. Any screening fence, wall, or curbing required by landscaping standards shall be maintained by the property owner in good condition throughout the period of the use of the parcel.
 11. The Planning Board may allow these standards to be reduced with a waiver request in special circumstances where other adequate landscape treatment is provided
- F. A performance guarantee in a form acceptable to the Town Attorney in the amount of 125% of the cost of materials and installation may be required to assure that all landscaping survives in a healthy condition one full year following planting. The Building Inspector or Planning Board shall determine the amount of the guarantee and consider financial impacts of this requirement on the project. The Building Inspector shall have the right to enter upon the property to inspect the landscaping and, after notifying the owner of any deficiencies, to require that the guarantee be used to pay for the replacement of any dead, dying, diseased, stunned, or infested plant materials. Further maintenance guarantees may be required to ensure replacement of damaged or dead landscape materials, upon decision by the Planning Board.
- G. All applicable requirements of these landscaping regulations imposed by the Planning Board shall be fully met prior to the Building Inspector granting a certificate of occupancy for a new building or use subject to these regulations.

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.