

Local Law S of 2022

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

§ 140-18	Overlay districts.
§ 140-18.1	Economic Enterprise Overlay District.
§ 140-18.2	Historic District Overlay District.

Section 1. Chapter 140 Amendment

§ 140-18. Overlay districts.

A. **(AP) Aquifer Protection Overlay District.** There is hereby created a special zoning district identified as AP District on the Zoning Map. This district shall be an overlay zone, within which the normal provisions of the zoning districts as mapped on the Zoning Map shall apply, except that no development shall be permitted which does not comply with the following standards:

- 1) Impervious surface area for proposed uses and activities located outside the B Business Development, H Hamlet, and I Industrial ~~and R-1 Moderate Density Residential Districts~~ shall not exceed 15% of lot area.
- 2) The following uses and activities shall be prohibited uses **partially or wholly** within the Aquifer Protection Overlay District:
 - a. Hazardous waste treatment, handling, storage, or disposal facilities.
 - b. Landfills, dumps, or other solid waste management facilities.
 - c. Radioactive materials treatment, handling, storage, or disposal facilities.
 - d. Regulated medical waste storage, treatment, disposal, or destruction facilities.
 - e. **Vehicle and electronic disassembly facilities**
 - f. **Asphalt, concrete, or coal tar plants.**
 - g. **Chemical and biological testing or research laboratories.**
 - h. **Junkyards, salvage yards or impoundment yards.**
 - i. **Chemical or petroleum product manufacturing and bulk sales (e.g., gasoline station).**
 - j. **Wood preserving or treating facilities.**

k. Tanneries

1. Clearing cutting of wooded areas greater than one acre

- 3) The following uses and activities, when proposed partially or wholly within the Aquifer Protection Overlay District, shall be designated as Type I actions under SEQRA. A hydrogeological study shall be required and mitigation including reduction in intensity or denial of use as necessary shall be made to protect the water supply.
- a. any residential uses, including subdivisions with projected on-site groundwater withdrawals and/or on-site sewage disposal flows using over 2,000 gallons per day or more during any single thirty-day period.
 - b. any commercial, mixed use, or industrial use or activity with projected on-site groundwater withdrawals and/or on-site sewage disposal flows over 1,000 gallons per day or more during any single thirty-day period.
- 4) Any use, activity, or proposed development project (regardless of its classification on the Schedule of District Regulations) within the AP Overlay district and subject to site plan review by the Town of Rochester Planning Board may be required to conduct a hydrogeological study upon Planning Board review.
- 5) Filling, excavating and earthmoving activities shall be minimized to the extent practicable.
- 6) The proposed use or activity shall be designed in such a manner that it will minimize any adverse effects on the quantity or quality of ground water available to existing wells within 1,500 feet of the proposed use or activity, including the quality of water that may be introduced from adjacent lakes, ponds, wetlands, or watercourses.
- 7) The following additional information shall be provided for a proposed nonresidential new use or activity located partially or wholly within the Aquifer Protection Overlay District:
- a. A location map of the proposed use or activity in relation to the Aquifer Protection Overlay District boundaries.
 - b. A map and report detailing the proposed conveyance, storage, distribution, generation, use or treatment of any wastes (except sewage) or hazardous substances.

B. (FD) Floodplain Development Overlay District. There is hereby created a special zoning district, the boundaries of which shall be congruent with those areas identified as special flood hazard areas on the 100-year Flood Hazard Boundary Maps for the Town of Rochester, as issued by the Federal Insurance Administration (FEMA) or its successor (FEMA designated 100-year floodplain) . This district shall be an overlay zone, within which the normal provisions of the zoning districts as mapped on the Official Zoning Map

shall apply, except that no development shall be permitted that does not comply with the provisions of the Town of Rochester Flood Damage Prevention Law,12 as amended. No principal structures, multifamily dwellings, two family dwellings, or single-family dwellings at a density of more than one dwelling unit per ~~three~~ ~~two~~ acres shall be permitted within the FD District. No planned unit developments, shall be permitted within the FD District, and no density bonuses or incentives of any kind shall apply in this overlay district. For parcels partially within the FD District, the development standards and regulations of the FD District shall apply to the portion of the lands within the FD District. Any building permits issued for the FD Overlay District shall be subject to FEMA Flood Building Codes.

- 1) The following uses are prohibited in all zoning districts within the FD Overlay District:
 - a. Hazardous waste treatment, handling, storage, or disposal facilities
 - b. Landfills, dumps, or other solid waste management facilities.
 - c. Radioactive materials treatment, handling, storage, or disposal facilities.
 - d. Regulated medical waste storage, treatment, disposal, or destruction facilities.
 - e. Vehicle and electronic disassembly facilities
 - f. Asphalt, concrete, or coal tar plants.
 - g. Chemical and biological testing or research laboratories.
 - h. Junkyards, salvage yards or impoundment yards.
 - i. Chemical or petroleum product manufacturing and bulk sales (e.g., gasoline station).
 - j. Wood preserving or treating facilities.
 - k. Tanneries
 - l. Clearing cutting of wooded areas greater than one acre.
- 2) These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material or stumps, except with site plan review and approval by Planning Board.

C. (EEO) Economic Enterprise Overlay District. The purpose of the Economic Enterprise Overlay (EEO) zone is to foster economic development, diversification of land uses and employment generation through the reuse and/or redevelopment of underutilized properties. Development is encouraged to follow a mixed use, compact pattern that is sensitive to the environmental characteristics of the land and adheres to the goals and objectives contained in the Town's Comprehensive Plan and follows § 140-20, General commercial and industrial standards. It is the intent of the EEO to promote flexibility in the development process while integrating a diversity of land uses within close proximity to each other. The specific

qualifications and requirements to attain EEO designation are detailed in § 140-18.1 of this code.

- 1) The EEO permits a broad range of uses that work in harmony to accomplish the following objectives:
 - a. Active utilization and reinvestment in underutilized properties, including adaptive reuse.
 - b. Adaptively reuse structures and associated lands to protect against abandonment and general vacancy of structures.
 - c. Enhance the variety and availability of employment, service, retail, residential and civic facilities.
 - d. Develop well-configured public spaces that are woven into the pattern of the development and dedicated to the social interaction, recreation, and visual enjoyment of residents.
 - e. Design civic buildings, open spaces, and other visual features to act as landmarks, symbols, and focal points for community identity.
 - f. Ensure development operates in harmony within the surrounding neighborhood and/or hamlet.
 - g. Ensure valued natural features and undisturbed areas are protected and incorporated into the open space of the development.
 - h. Foster the compatibility of buildings and other improvements through their arrangement, bulk, form, character, and landscaping.
 - i. Design the public and private realms using architecture, landscaping and other elements that respond to the unique character of the region.
 - j. Promote projects and development that meet objectives of the Comprehensive Plan.

D. (HD) Historic District Overlay. The Town of Rochester determines that the historical, archeological, architectural, and cultural heritage of the Town is among the most important assets of the Town and that it should be preserved. Historic preservation offers residents of the Town a sense of orientation and civic identity, is fundamental to localized concern for the quality of life, and produces numerous economic benefits to the Town. The existence of irreplaceable buildings of historical, archeological, architectural, and cultural significance is threatened by the forces of change. The specific qualifications and requirements are detailed in § 140-18.2 of this code.

- 1) It is hereby declared to be the public policy and in the public interest of this Town to engage in a program of historic building preservation to accomplish the following purposes:
 - a. To promote the use, reuse, and conservation of such buildings for the education, inspiration, welfare, recreation, prosperity, and enrichment of the public

- b. To promote and encourage the protection, enhancement and perpetuation of such buildings which have or represent distinctive elements of the Town's historical, archeological, architectural, or cultural significance
- c. To encourage and assist residents and local organizations of the Town to undertake preservation programs and activities
- d. To foster civic pride in the beauty and accomplishments of the past through cooperation with residents and local organizations
- e. To protect and enhance the Town's attractiveness to visitors and support and stimulate the Town's economy
- f. To ensure the harmonious, orderly, and efficient growth and development of the Town
- g. To ensure a linkage between past and future generations
- h. To encourage the repair, maintenance, and preservation of historic structures.
- i. Promote projects and development that meet objectives of the Comprehensive Plan.

Section 2. Chapter 140 Amendment

Chapter 140 of the Code of the Town of Rochester § 140-18.1 Economic Enterprise Overlay District. shall be amended as follows.

§ 140-18.1 Economic Enterprise Overlay District.

A. Application and approval procedure.

- 1) The application for and approval of an EEO shall be treated as a legislative act and an amendment to the Town of Rochester Code Chapter 140, Zoning.
- 2) The application for and approval of an EEO shall follow the procedures for zoning amendment outlined in Town Law, as well as the procedures required under the New York State Environmental Quality Review Act (SEQRA).
- 3) A complete application pursuant to this article shall be submitted prior to consideration by the Town Board.
- 4) The Town Board reserves the right to consider or not consider any petition submitted under this article.
- 5) The adaptive reuse of structures and associated lands containing said structures shall be permitted under this article.
- 6) Upon approval on an EEO by the Town Board, the applicant shall be required to apply to the Town of Rochester Planning Board for site plan approval. This submission shall include all documents, plans and items required under conformance with Article VII of this chapter. The Planning Board shall review said application pursuant to this chapter and by New York State Town Law § 274-A.

B. Information to be provided.

- 1) Applications for the establishment of an Economic Enterprise Overlay Zone by amendment to the Zoning Map shall be made in writing to the Town Board, by the owner(s) of the land proposed to be included in such district or by a person who possesses a written contract or option rights to purchase such lands. In the event that the application is made by a person holding a contract or option rights to purchase the lands, the application shall be accompanied by a statement signed by the owner(s) granting authority on the part of the applicant to make the application.
 - a) A description of the existing economic and land use opportunities for the property as currently zoned and/or developed.
 - b) An explanation of why and/or how currently permitted uses and/or regulations restrict the highest and best use of the property.
 - c) A description of how the proposed project and land uses are in conformance with the Town of Rochester Comprehensive Plan.
 - d) A description of how the proposed project and land uses are compatible with adjacent existing land uses and those reasonably anticipated in the future.
 - e) A full environmental assessment form.
 - f) A conceptual development plan of sufficient detail as shall be determined by the Town Board. The conceptual development plan shall consist, at a minimum, of the following:
 1. A mete and bounds description of the proposed district.
 2. A survey of the land prepared and certified to the Town of Rochester by a licensed land surveyor.
 3. A map drawn to scale showing existing conditions of the parcel, including:
 - a. The name and address of the owner of record and, the name and address of the applicant, if not the owner of record.
 - b. The name of the person or firm preparing the plan.
 - c. The date, North arrow, and scale of the plan.
 - d. The acreage of the parcel and the tax map number(s) of the parcel.
 - e. The location and width of existing and proposed state, county or Town highways or streets and rights-of-way abutting the parcel.

- f. The approximate location and outline of existing structures both on the parcel and within 100 feet of the property line and other setback requirements.
 - g. The location of any existing storm or sanitary sewers, culverts, water lines, hydrants, catch basins, manholes and other visible infrastructure as well as other utilities within or adjacent to the parcel.
 - h. The existing zoning of the parcel.
 - i. The approximate location and outline of existing water bodies, streams, marshes or wetland areas and their respective classification as determined by the appropriate governmental regulatory body.
 - j. The approximate boundaries of any areas subject to flooding or stormwater overflows.
 - k. The location and outline of existing vegetation clusters (for a distance of 50 feet onto adjoining property).
 - l. The identification of any other significant features.
4. The conceptual development plan, drawn approximately to scale, shall clearly show the following:
- a. The approximate location and dimensions of proposed principal and accessory buildings on the site and their relationship to one another, and to other structures in the vicinity.
 - b. The approximate location and dimensions of vehicular traffic circulation features of the site, including proposed roadways, internal driveways, parking and loading areas and proposed access to the site.
 - c. The proposed source of water supply and method of delivery to the site.
 - d. A general plan for the collection and disposal of sanitary waste from the site.
 - e. A general plan of proposed stormwater management facilities.
 - f. Preliminary identification of areas which will be disturbed and areas which will remain undisturbed by project implementation.

C. Town Board review.

- 1) In its review of the application, the Town Board may suggest such changes in the conceptual plan as are found necessary or desirable by the Town Board in order to meet the requirements of this section. The Town Board may notify the applicant of such changes and may discuss such changes with the applicant. The suggestion of changes by the Town Board shall not constitute a waiver of its legislative discretion to reject or deny the rezoning application.
- 2) The Town Board shall have the discretion to reject the application outright or to hold a public hearing with regard to the rezoning application.
- 3) If the Town Board decides to hold of a public hearing to consider the rezoning of a property, the application shall be referred to the Town of Rochester Building Inspector who shall make a recommendation to the Town Board within 30 days of receipt of the application, and to the Town of Rochester Planning Board and the Ulster County Planning Board for recommendations as provided in this chapter and General Municipal Law.
- 4) The Town Board may refer the application to any local, state, or federal agency having jurisdiction over or expertise in the subject matter seeking comment.
- 5) The Town Board may engage the services of an engineering consultant to review such aspects of the project which may be beyond the scope of expertise of local Town employees or volunteer boards and commissions, such as stormwater plans, traffic plans, or other similar specific reports. The fee for such review shall be the responsibility of the applicant and an escrow account shall be established prior to commencement of any review.
- 6) If the Town Board elects to hold a public hearing, the Town Clerk shall provide notice of said hearing to the owners of all parcels located within 500 feet of the subject property and shall publish proper legal notice of the time and place of the public hearing.
- 7) Following the public hearing the Town Board may, in its sole legislative discretion, act to approve, approve with modification or conditions, or disapprove the rezoning application. Approval shall result in amendment to the Zoning Map.
- 8) In determining whether to approve the application for an EEO District, the Town Board shall consider the public health and welfare of the surrounding area, together with following criteria, and the intent and objectives of this section:
 - a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the creation of a district on the property.
 - b) Whether the site is located in an area suitable for the proposed elimination of nonconformity or readaptation of buildings and site development so as to be reasonably free of objectionable conditions such as odors, noise, dust, air and light pollution, traffic volumes beyond the capacity of the existing road systems or proposed road improvements, and other environmental constraints.

- c) Whether the site will have adequate water and sewer facilities.
- d) The recommendations of the Town Building Inspector or any Town contracted consultants.
- e) Recommendations of the Town of Rochester Planning Board and the Ulster County Planning Board.
- f) Whether the site is located in a manner that allows access to the site from a public street with adequate site distances and that meets current engineering standards of the Town.
- g) Whether the readaptation or modification of the site shall produce undue adverse effects on the surrounding neighborhood.

D. Planning Board review.

- 1) Following a zoning amendment to create an EEO District, site plan review and approval by the Planning Board shall be required prior to the issuance of a building permit for any readaptation or modification of development of the property.
- 2) The Planning Board shall not approve any site plan application within an EEO District unless such Board finds that the plan is in substantial conformance with the conceptual development plan that was submitted to the Town Board and that served as the basis for the zone change to the EEO District.

E. Regulations.

- 1) To be eligible to apply for EEO zoning consideration, all properties shall adaptively reuse structures and associated lands to protect against abandonment and general vacancy of structures or allow for the reuse and/or redevelopment of underutilized properties.
- 2) **All other Overlay District regulations shall remain in place.**
- 3) All parcels located in the AR-3, AB-3, H, I, NR, and B Zoning Districts shall be eligible, except as listed below.
 - a) Properties located in a designated county agricultural district with existing structures utilized in a farm operation, as defined in this Code, shall not be eligible.
 - b) **Parcels consisting entirely of vacant land which are ~~properties~~** located in a designated county agricultural district with soil areas of prime farmland or farmland of statewide importance, as designated by the United States Department of Agriculture, shall not be eligible.
- 4) District size limitations.
 - a) An EEO shall include parcels in their entirety and the perimeter of EEO districts shall be coterminous with the platted property lines of those parcels

included in said district. In the event that an applicant wishes to use multiple parcels in its application, said parcels must be combined prior to the Zoning Map being amended.

- b) No land shall be designated for an EEO if, in the opinion of the Town Board, it is too small, too narrow in width, too irregular in shape; **contains natural resources otherwise too valuable** or **is** with topography too excessive to be planned and developed in a manner consistent with the purpose and objectives of the EEO.
- c) The Town Board may set lot size requirements to assure that the proposed development is in accord with the Town's Comprehensive Plan and **consistent** ~~in concert~~ with the character of the neighborhood.

F. Modifications.

- 1) Any further proposed change in use of a property that does not comply with the underlying zoning for the property shall be required to go back before the Town Board for review pursuant to the provisions of this section
- 2) Any further proposed subdivision of a property shall require amendment to the EEO by the Town Board and subdivision approval of the Planning Board.
- 3) Following initial construction and occupancy, any changes other than use changes shall be considered as a request for a site plan amendment and be referred to the Planning Board for amended site plan review.
- 4) Modifications to the zoning of properties within an approved EEO Overlay District require application and approval by the Town.

G. Districts, land use allocation and permitted uses.

- 1) Overlay district requirements.
 - a) The EEO District shall permit Economic Development and Community Development Overlays to provide enhanced flexibility while permitting the mixing of compatible uses within the community.
 - b) Each lot within an EEO shall be allocated to a specific district and land use category at the time of application.
 - c) Adaptive reuse of existing structures and associated lands shall be permitted subject to the review criteria set forth within these EEO regulations.
 - d) The following uses are prohibited in EEO districts:
 1. Agricultural processing facilities.
 2. Bulk fuel storage.

3. Fast food restaurant.
4. Gasoline filling stations & Convenience Stores.
5. Mining (under DEC jurisdiction).
6. Resource recovery, vehicle junkyard, and wrecking.
7. Retail establishments (vehicle and equipment).
8. Retail Establishments (national or regional chain concepts with a square foot footprint over 4,000 square feet)
9. Trucking services.
10. Transfer station
11. Storage units/self-storage facilities

H. Design requirements.

1) Regulations.

- a) Development may take place on the existing development footprint regardless of such footprint's location. Expansion of development beyond the existing development footprint, or relocation of a development footprint, of any qualifying property shall be allowed if such expansion or relocation is approved by the Town Board based on the layout and limitations of the site, and additionally, any such expansion must be approved by the Planning Board in the site plan review process. The Planning Board shall not be obligated to grant such expansion if it determines that the proposed expansion is inappropriate for the site.
- b) The Town Board and the Planning Board may grant waivers of development standards for the property, if deemed appropriate for the redevelopment of the property.
- c) Density of existing structures may be maximized in accordance with existing New York State Building Codes.

2) Design standards.

- a) All standards of Chapter 140 of the Code of the Town of Rochester.
- b) Notwithstanding the above, the guidelines and chapter sections may be waived where deemed appropriate by the Town Board in review of the projects for redevelopment of preexisting structures for adaptive reuse.
- c) Required off-street parking spaces shall be determined by the Town Board with consideration of recommendations made by the Planning Board and in general conformance with § 140-17.

I. Fees.

- 1) An application shall be accompanied by an application fee as prescribed from time to time by resolution of the Town Board.
- 2) If professional review of the application is required by a designated private planning, engineering, legal or other consultants or, if other extraordinary expense to review documents or conduct special studies in connection with the proposed application is incurred, reasonable fees shall be paid for by the applicant, in accordance with § 140-63B.
- 3) Applicants will be responsible for payment of all fees associated with the application, including, but not limited to, mailing, duplication of documents and materials, and public hearing fees.

Section 3. Chapter 140 Amendment – New Subsection Added

Chapter 140 of the Code of the Town of Rochester, a new subsection § 140-18.2 **Historic District Overlay District**, shall be added as follows.

§ 140-18.2 Historic District Overlay District.

- A. **Jurisdiction.** In accordance with § 96-a of the General Municipal Law of the State of New York, entitled "Protection of Historical Places, Buildings and Works of Art," and Article 5-K of the General Municipal Law of the State of New York, entitled "Historic Preservation," the Town Board of the Town of Rochester has authority to provide, by local law, certain regulations, special conditions and restrictions for the protection, enhancement; perpetuation and the use of buildings having special character or special historical or other aesthetic interest or value. Pursuant to such authority, the Town Board has adopted this article setting forth standards to be followed when a zoning permit is issued affecting a historic structure as defined by this code.
- B. **Findings.** The Town of Rochester was formally established in 1703 by a Patent from Queen Anne of England and grew out of the original Dutch settlement community of Wildwyck on the Hudson. In its early days, the extended colony had a strong agrarian character, with the initial habitation stretching along the fertile alluvial basin of the Rondout Creek. The earliest form of stone dwelling is the one-room single story house. Stone construction continued strongly into the early nineteenth century in Rochester. Fifty-three stone houses survive to date. The arrival of the Canal in the Rondout Valley coincided with the introduction of the Greek revival style of architecture and a proliferation of frame homes. The barn was the principal farm structure. Two basic types were constructed: the Dutch variety and the English.

In 1828 the Delaware and Hudson (D & H) Canal began service through the Hudson River. As the industrial base of the township grew, this pattern continued with mill sites and small shops being located in the surrounding hills close to the streams that powered them and to the natural resources that they used. In fact, the small hamlet of Alligerville was something of a boomtown that grew around the activity of the Canal. The D&H canal ran north following the Rondout Creek, and later connected with the Hudson River running south. This permitted a wider distribution of goods and was a vital asset for early business development in the Town

of Rochester.

The tourism that grew in the early twentieth century generated the Craftsman and Bungalow Styles. In reference to the aforementioned, a number of residential, commercial, and accessory buildings are of great historical significance to the Town by reason of: Historic events which have taken place within, on or near them; or the fact that they are illustrative of events in periods of history of the Town and surrounding areas.

It is further found that a number of residential, commercial, and accessory buildings are of historical significance to the Town for their architectural and aesthetic value due to their representation of a style or period of architectural design of buildings which is significant to the Town's identity, and which forms an integral part of the Town's environment and in consideration of the Town's history and character. In the interests of preservation of these areas within the Town which are of historical, archeological, architectural, or cultural importance, the Town of Rochester enacts the Historic District Overlay.

Local design guidelines are not intended to prevent property owners from making changes to their properties, they are meant to ensure that changes enhance the historic qualities that are enjoyed by all members of the community.

- C. **Establishment of District.** There is hereby created a special zoning district identified as the Historic District Overlay. The Historic District Overlay shall include but not be limited to the Alligerville and Accord Historic Districts. This district shall be an overlay zone, within which the normal provisions of the zoning districts as mapped on the Zoning Map shall apply, except that no development shall be permitted which does not comply with the following guidelines:

D. Design Guidelines

- 1) Special attention shall be paid to protecting the distinctive character, landscape, and historical structures within the Town of Rochester Historic District Overlay. TOWN OF ROCHESTER design approvals shall comply with the following,
 - a) The removal or disruption of historic traditional or significant structures or architectural elements shall be avoided or minimized.
 - b) The conversion, conservation and preservation of existing buildings and sites in a manner that maintains the historic or distinctive character of the Town of Rochester Historic District is encouraged.
 - c) Any changes modification or alterations to the exterior of the structures shall be consistent with:
 1. The New York State Office of Parks, Recreation, and Historic Preservation review standards, and guided by the Secretary of the Interior's Standards for the Treatment of Historic Properties
 2. The distinctive characteristics of the district as identified in the Town of Rochester Historic Resources Survey

3. Technical Guidelines for the preservation of historic houses and other buildings as detailed by either the National Register of Historic Places or the New York Landmarks Preservation Commission shall be followed to the greatest extent possible.
- d) Proposed structures or modifications to existing structures shall be harmoniously related to their surroundings, the terrain in the district, and to the use, scale, and architecture of existing structures in the district that have a functional or visual relationship to a proposed structure or modification. This may include but not be limited to the proportion of the property's front façade, proportion and arrangement of windows and other openings within the façade, roof shape, and the rhythm of spacing of properties on streets, including setback, and the importance of historic physical and visual features to the significance of the property.
 - e) All spaces, structures, and related site improvements visible from public roadways shall be designed to be compatible with the elements of the area of the Town of Rochester Historic Overlay Districts in and around the proposed building or modification.
 - f) The color, size, height, location, proportion or openings, roof treatments, building materials, and landscaping of commercial or residential property and all proposed signs and lighting shall be evaluated for compatibility within the Accord and Alligerville National Register Districts architectural motif.
 - g) Maintenance of scenic beauty, historic structures, monuments, and landscaping shall be a priority.
 - h) Structures should continue in their original use or be converted to a use that minimizes changes to its character, defining features, and all additions shall be compatible with or complementary to the historic property.
 - i) Repairs and restorations should retain original distinguishing characteristics, materials and finishes or, replace in-kind to the greatest extent possible. If features are missing, historic documentation should be used to guide replacement. Treatments that could damage historic materials should not be used unless necessary for structural integrity of the structure.
 - j) New construction, if necessary, should not destroy historic features, elements, materials or alter the historic character of structures.

E. Application and Review Procedure

- 1) All construction or modifications requiring a Zoning Permit within a Town of Rochester Historical District Overlay shall be reviewed by the Town of Rochester Historic Preservation Commission (HPC), which shall review an application and report to the Code Enforcement Office within 62 days.

- 2) For site plan and special use permits applications, the Planning Board shall refer the application to the HPC for review and recommendations.
- 3) The HPC shall be authorized to send annual notification to the owner operators of structures within a Historic District Overlay of the regulations of 140-18 (D) (HD) Historic District Overlay.
- 4) For site plan and special use permits applications within the Historic District Overlay, the Planning Board shall be authorized to contract with consultants as the PB deems necessary. Such consultant shall be a registered architect or an architectural firm, a licensed landscape architect, or a planner who is a member of the American Institute of Certified Planners
- 5) The Historic Preservation Commission may seek the recommendations of any Town or regional agency or outside specialist including, but not limited to, the National Register of Historic Places, Ulster County Regional Planning Board, the Ulster County Historical Society, the New York State Historic Preservation Office (NYS OPRHP), and New York State Department of Agriculture and Markets.
- 6) The HPC may offer guidelines for the preservation, reconstruction, and renovation of the reviewed application and may issue a “certificate of appropriateness” for structures that meet all historic design guidelines. Hard copy and web-based design guidelines, templates, and resources are available to applicants through the Town Historic Preservation Commission, the National Register of Historic Places, the Ulster County Historical Society, the Preservation League of New York State (www.preservenys.org) and the New York State Historic Preservation Office, among other resources.

Section 4. 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 5. 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.

