

**Local Law U of 2022**

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

**§ 140-20. General commercial and industrial standards.**

**Section 1. Chapter 140 Amendment**

Chapter 140 of the Code of the Town of Rochester **§ 140-20. General commercial and industrial standards** shall be amended as follows.

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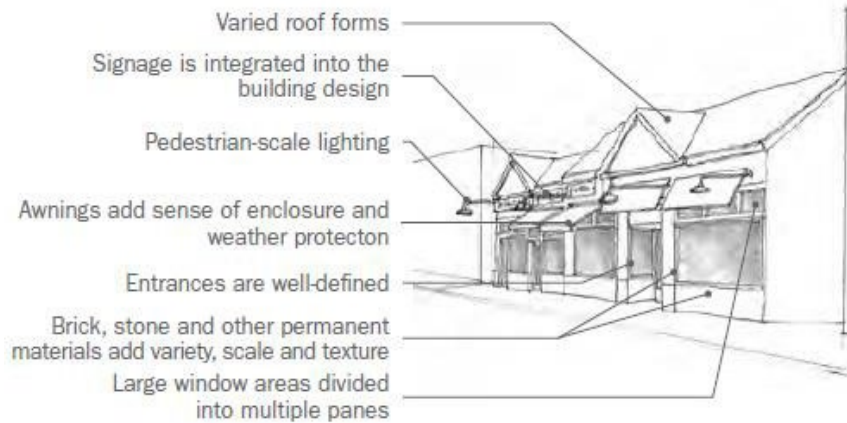
- A. Wherever ~~a building permit, site plan review, or special use permit is required new-commercial, new industrial or new multifamily residential uses~~, with the exception of agricultural activities and home occupations, are proposed, the following performance standards shall apply. The ~~Code Enforcement Officer or Building Inspector~~ shall ensure these standards are met prior to issuing certificates of occupancy for such uses and may require the applicant(s) to provide documentation of compliance.
- B. ~~Green energy/energy conservation development shall be encouraged to incorporate 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~~
- C. Building design and location.
  - 1) Building design and location should be suitable for the use intended and compatible with natural and manufactured surroundings. ~~Examples of preferred commercial and industrial building designs are detailed in the TOR Historic Resources Report & Reconnaissance Survey, TOR Comprehensive Plan and the Ulster County Community Guidelines.~~
  - 2) Building color, materials and design should be adapted to surroundings as opposed to adaptation of the site to the building or the building to a national franchise concept. ~~The Planning Board may request alternatives to building color, materials, and design including changes which may be contrary to a national franchise aesthetic. If existing surrounding buildings are disused, poorly maintained, or abandoned building design shall reflect the design standards as detailed herewith or within the Comprehensive Plan and not reflect the surrounding structures.~~
  - 3) ~~Exterior materials of new construction shall be compatible with those traditionally used in the hamlets and may include wood (clapboard, board and batten or shingles), natural stone or red common brick.~~
  - 4) ~~Man-made or processed masonry materials (such as cultured stone, or cement board) designed to simulate wood, brick or stone may be used upon a determination by the Planning Board that the texture, color, ecological impact, method of construction and architectural features (gables, lintels, sills, etc.) of the material is sufficiently similar to that of the natural material to be compatible.~~
  - 5) ~~Facades of metal, plastic, plywood panels, ceramic tile, EIFS veneer systems, precast concrete, vinyl or similar materials, stucco or similar troweled or sprayed-on textured surface finishes shall only be permitted with approval by the Planning Board.~~

- 6) Building placement and site development layout should also incorporate the site's topography, existing vegetation, and other unique features. On a lot with multiple buildings, those located on the interior of the site ~~shall should~~ front towards and relate to one another, both functionally and visually, and may be organized around features such as courtyards, greens, or quadrangles. Smaller, individualized groupings of buildings are encouraged. Buildings ~~shall should~~ be sited to provide ~~adequate and~~ safe fire and emergency access. Accessory buildings shall, wherever possible, be located in the rear.
- (7) Buildings ~~shall should~~ relate in scale and design features to the surrounding buildings, showing respect for existing and neighborhood architecture. Buildings shall avoid long, uninterrupted walls or roof planes. Building wall offsets, including projections, recesses, and changes in floor level or other comparable design features shall be used in order to add architectural interest and variety, and to relieve the visual effect of a simple, long wall. Similarly, roof- line offsets ~~shall should~~ be provided, in order to provide architectural interest and variety to the massing of the building and to relieve the effect of a single, long roof. ~~For example, a main pitched roof could be combined with secondary roof types. Large roof expanses could incorporate dormers, cupolas, and other features to help reduce the scale of pitched roofs.~~ Commercial facades of more than 100 feet in length shall incorporate design features of this nature.
- (8) Building entries should be emphasized through canopies, awnings, and other architectural elements. The use of covered arcades, porte cochere, and canopies are encouraged as an architectural feature in façade design and to provide weather protection
- (9) All ~~building~~ facades ~~of such a building~~ that are visible from adjoining streets or properties should exhibit features comparable in character to the front so as to better integrate with the community. Where such facades face adjacent residential uses, ~~earthen berms planted with evergreen trees landscaped vegetative buffers shall should~~ be provided.
- (10) ~~Loading docks and accessory facilities should be incorporated into the building design and screened with materials comparable in quality to the principal structure. Dumpsters, outside storage (non-display) and drop-off boxes shall be limited to rear yards or screened side yards.~~  
Note for review purposes: (combined in following bullets)
- (10) Driveway, sidewalk/walkway, and curb materials shall be functional and compatible with the style, materials, colors, and details of the surrounding buildings. The selection and use of pavement and curb materials shall consist of a stable material. ~~Pervious paving or stabilized gravel/grass or other ecologically conscious materials and techniques shall be utilized as practicable over asphalt paving.~~ Loading docks and accessory facilities should be incorporated into the building design and screened with materials comparable in quality to the principal structure. (See chapter 140-17 Parking, Loading and Traffic).
- (11) Dumpsters, outside storage (non-display) and drop-off boxes shall be limited to rear yards or screened side yards
- (12) All mechanical equipment, such as heating and air conditioning units, exhaust fans, satellite dishes, etc., shall be confined within the principal structure or visually screened by natural topography or a wall, fence, berm or landscaping of sufficient height and density to screen the equipment year-round from view from adjacent streets, properties, and parking lots. Such equipment should preferably not be located on the building roof.
- (13) Developers are encouraged to preserve tree borders. Existing trees over ~~six eight~~ inch diameter at ~~4 feet breast~~ height shall be incorporated in the site design to the maximum extent practical, as shall be determined by the Planning Board, and ~~no trees none~~ shall be removed prior to site plan review and approval, ~~unless for safety reasons as approved by the Code Enforcement Officer.~~

- (14) New construction affecting existing buildings of historically traditional architectural design within the community should respect the existing height, bulk, scale, and style of the existing architecture wherever practical. Materials used may be required to be of a similar color, texture, and style of the existing architecture.
- (15) New construction within 500 feet of a National or State Register Historic District, Site or Structure is encouraged to reference the historical designs detailed in the Town of Rochester Historic Resources Report and shall be referred to the TOR Historic Preservation Committee for review and commentary . See Examples below.



- (16) The use of building facade colors compatible with a historic color palette shall be encouraged.



#### D. Building Size

- 1) Where allowed in a zoning district, except the Industrial (I) zoning district, freestanding commercial buildings, or a group of attached commercial buildings total footprint shall not exceed an area of 10,000 square feet of retail space.
- 2) In zoning districts PL-10 and R-5 all Resorts, Private Educational Facilities, Places of Worship, Day Care Centers, Education and Conference Centers, Health Care Institutions, Museums Galleries and Performance Centers, Commercial Sawmills shall only be permitted on properties within 1000 feet of a State or County Road.
- 3) All resorts shall be 125 guest rooms or less in size..

E. **Route 209 commercial design standards.** Any site plan review or special use application for a new commercial or industrial use fronting on or within 600 feet of Route 209 shall ~~should~~ be designed to comply with the standards of 140-20(C) such that all front and side building facades are constructed using a minimum of two principal materials (e.g., stone and wood, metal and concrete, etc.) to create architectural variety consistent with existing character.

F. **Commercial/residential buffers.** Where a commercial or manufacturing use is contiguous to an existing residential use (including those situated on the opposite side of a highway) or any approved residential lot, the Planning Board may require that the minimum front, side, and rear yard setbacks be increased by up to 50%. The Board may also require, for purposes of separating incompatible uses or shielding the residential property from negative impacts, that a buffer consisting of a solid fence of wood, earthen berm and/or a twenty-foot-wide dense evergreen planting not less than six feet high be maintained, unless the properties are in the same ownership or the full width of the yard setback is already wooded.

G. **Inflammables.** All activities involving the manufacturing, production, storage, transfer, or disposal of inflammable and explosive materials shall be provided with **NYS Uniform Fire Protection and Building Code compliant adequate** safety devices against the hazard of fire and explosion. Firefighting and fire suppression equipment and devices shall be provided pursuant to National Fire Protection Association guidelines. Burning of waste and refuse materials in open fires is prohibited. Details of the potential hazards and planned safety and accident response actions shall be provided by the applicant and the Planning Board may require greater front, side, and rear yard **setbacks** and/or fencing.

H. **Electrical disturbances.** No activities shall be permitted which emit dangerous radioactivity

or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

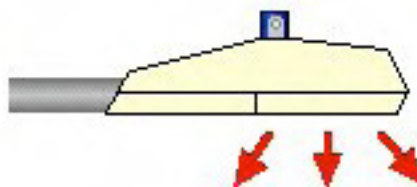
**I. Noise.**

- (1) All proposed new land uses shall not generate cumulative sound levels (SPL), at or beyond any lot line, which exceeds the ambient noise level by 10 or more decibels (dBA). Any sound of five (5) to ten (10) decibels above the ambient noise level shall be attenuated or mitigated to the maximum degree practical, as shall be determined by the Planning Board during site plan review. The Planning Board may, as a condition of site plan review and approval, require additional setbacks, buffers, and fencing, or reasonably limit the hours of operation to attenuate or mitigate any potential noise impacts of any proposed use. **If additional setbacks, buffers, or other noise mitigating measures are required by the Planning Board, annual certification of their maintenance in operative form shall be provided to the Code Enforcement Officer.**
- (2) The determination of noise levels shall be made using New York State Department of Environmental Conservation guidelines (see Assessing and Mitigating Noise Impacts Program Policy), as amended. **Noise measurements shall be performed by a certified third-party sound consultant at the expense of the applicant.** The increase in ambient noise level shall be determined for all lot lines at the site where the project is to take place, **during the proposed hours of operation of the project** and **at** any other locations as shall be specified by the Planning Board considering existing noise **sources-generators**.
- (3) The maximum permissible sound levels of this section shall not apply to emergency or security alarms; repair or construction work to provide public utilities; construction operations between the hours of 7:00 a.m. and 7:00 p.m.; emergency repairs; agricultural activities other than kennels; motor vehicles when used on public streets in accord with state regulations; aircraft; government authorized public celebrations; unamplified human voices; or routine ringing of bells or chimes by a place of worship or similar facility.

**J. Vibration.:** No vibration shall be permitted on a regular or continuing basis which is detectable without instruments at the property line.

**K. Lighting.**

- 1) Lighting for all commercial, multifamily residential, institutional, and industrial uses shall be shielded and focused downward to prevent glare and spillover of light onto adjoining properties. **LED and other high-efficiency lighting shall be used. Climate Smart Communities defines "high efficiency" as any lighting fixture that exceeds ASHRAE 90.1 by at least 3%.**



- 2) All lighting shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians and land uses in proximity to the light source.
- 3) No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or other sources, so as to be visible at the property line on a regular or continuing basis, shall be permitted.
- 4) Lighting contours shall be required on site plans for purposes of determining compliance

with this section. Average foot-candles shall not exceed 10 footcandles at any point on the site plan Average footcandles at the property line shall be less than 1.0 footcandles, except at site entrances.

- 5) Globe lights shall ordinarily not be permitted, except for limited aesthetic and sidewalk lighting as part of a site plan subject to review by the Planning Board.
- 6) Light pole heights shall not exceed building heights, and none shall exceed 25 feet in height.
- 7) All exterior and sign lighting, with exception of safety related building mounted lighting, shall be turned off outside of hours of operation. Safety related building mounted lighting shall preferably be motion sensitive lighting.
- 8) All lighting over 2,000 lumens in strength shall meet the full cut-off standard of the Illuminating Engineering Society of North America (IESNA).
- 9) All site activity areas, including parking lots and walkways, shall meet minimum IESNA standards and exceed those standards by no more than 25%.
- 10) All gasoline canopy lighting shall be fully recessed and the average light level under the vehicular canopy shall not exceed 20 horizontal maintained footcandles.

**L. Air pollution originating from new commercial or industrial uses.** No emission of fly ash, dust, fumes, vapors, gases, and other forms of air pollution shall be permitted on a regular or continuing basis which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling. The Ringelmann Smoke Chart shall be used to determine the total smoke emitted. The emission of one smoke unit per hour and smoke with discernible density of No. 1 on the Ringelmann Smoke Chart shall be prohibited. **Any open burning of waste or refuse shall be prohibited.**

**M. Water pollution originating from new commercial or industrial uses.** All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and planned safety devices and contamination response actions shall be provided by the developer.

## **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.