

Local Law BB of 2022

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

Various Cleanup Amendments

Section 1. Chapter 140 Amendment

Chapter 140 of the Code of the Town of Rochester **§ 140-1. Authority, interpretation, conflict, and separability.** shall be amended as follows.

§ 140-1. Authority, interpretation, conflict, and separability.

- A. Title. This chapter shall be known as the "Town of Rochester Zoning Law."
- B. Interpretation. The provisions of this chapter, in their interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare, **and shall be in compliance with the statutes of Home Rule at all times.**
- C. Conflict. This chapter is not intended to interfere with, abrogate, or annul any other law, rule or regulation statute or provision of law. Where any of the provisions of these regulations impose restrictions different than any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This chapter, however, shall repeal and replace in its entirety the existing Town of Rochester Zoning Law.
- D. Jurisdiction. All complete applications filed prior to the effective date of this chapter shall be reviewed pursuant to regulations in effect prior to amendment. An application shall be considered complete for these purposes when **either** a public hearing on the same has been scheduled or completed, or, in the event no public hearing is required, when the Code Enforcement Officer determines the application is complete **and when** the requirements of the State Environmental Quality Review Act have been met.

Section 2. Chapter 140 Amendment

Chapter 140 of the Code of the Town of Rochester **§ 140-2. Purposes.** shall be amended as follows.

§ 140-2. Purposes.

It is the legislative intent of this chapter to provide standards and procedures to guide land use and new development.

This chapter is specifically intended to implement the Town of Rochester Comprehensive Plan, including but not limited to the following objectives:

- A. Directing growth by encouraging concentrations of new residential, nonresidential, and mixed-use developments in areas that currently are or that can be conveniently served by roads, utilities, schools, and other facilities-
- B. Directing large-scale or intensive development to areas with adequate infrastructure.
- C. Broadening housing opportunities in the Town of Rochester to provide housing for all populations including young families, senior citizens, working families and households, single adults, and others.
- D. Offering incentives to encourage better site design and use of energy efficient principles in new development projects.
- E. Protecting historic resources.
- F. Protecting the quantity and quality of the water supply by strengthening measures to prevent groundwater contamination, assuring protection of surface waters, preserving wetlands and wildlife habitats, and encouraging the provision of sewage collection, maintenance, and treatment within the hamlets.
- G. Protecting important natural resources identified in the Town's Natural Resources Inventory.
- H. Minimizing disturbance to wildlife and vegetation from the effects of new development.
- I. Regulating floodplain development.
- J. Providing for continued commercial and industrial growth.
- K. Allowing for home-based occupations.
- L. Preserving productive farmlands as a viable industry resource and means for maintaining open space.
- M. Encouraging agri-tourism activities by farms and otherwise promoting and developing agriculture.
- N. Protecting the Catskills and the Shawangunk Ridge by limiting clearing and intensity of use to maintain existing character and native species habitats.
- O. Creating guidelines for new development and its landscaping that maintain a high-quality built environment while preserving and using natural beauty wherever possible.
- P. Recognizing historical neighborhoods and preserving small-scale mixed-use

development patterns in these areas.

- Q. Preventing intrusion of incompatible uses in residential areas to ensure privacy **and safety** for residents and their freedom from nuisances.
- R. Ensuring signage in Town is both attractive and functional.[3]
- S. Reducing traffic congestion and improving the safety of the roads in the Town.
- T. Requiring adequate setbacks and off-street parking for both residential and nonresidential uses.
- U. Encouraging alternatives to strip commercial development, by encouraging new development in hamlet areas and/or concentrated nodes that minimize the road frontage and curb cuts required.
- V. Ensuring new construction provides adequate access for emergency services.
- W. Encouraging the use of conservation subdivision, planned unit development,, transfers of development rights and other flexible techniques for simultaneously preserving open spaces, protecting natural resources and accommodating new development.
- X. Protecting the community against unsightly, obtrusive, and noisy land uses and operations, **and encouraging commercial activities in areas zoned for this purpose.**
- Y. Providing public access to trails and other recreational resources.

Section 3. Chapter 140 Amendment

Chapter 140 of the Code of the Town of Rochester **§ 140-5. Enumeration of districts.** shall be amended as follows.

§ 140-5. Enumeration of districts

The Town of Rochester is hereby divided into the following zoning districts:

AR-3	Residential Agricultural District
AB-3	Agricultural Business District
A-10	Agricultural Resource District
R-1	Neighborhood Residential District
R-2	Low Density Residential District
R-5	Rural Conservation District
PL-10	Preserved Land District
H	Hamlet District
I	Industrial District
NR	Natural Resource District
B	Business District
FD	Floodplain Overlay District (see supplementary regulations)
AP	Aquifer Protection Overlay District (see supplementary regulations)
EEO	Economic Enterprise Overlay District (see supplementary regulations)
HD	Historic Preservation Overlay District (see supplementary regulations)

Section 4. Chapter 140 Amendment

Chapter 140 of the Code of the Town of Rochester **§ 140-9. Applicability of regulations.** shall be amended as follows.

§ 140-9. Applicability of regulations.

- A. Whenever any owner or occupant of property in the Town of Rochester shall, for any purpose or in any manner; establish a new use, change an existing use, make permanent structural improvements to a property, erect a new building, or move, add to, or enlarge any existing land use or building; such owner or occupant shall first comply with the requirements of this chapter. A zoning permit shall be required whenever a change in land use occurs, regardless of whether any new construction is involved or not, excepting that agricultural **uses**, personal-use timber harvesting, and tilling may be exempt from all permit requirements.
- B. Upon a zoning permit determination by the Code Enforcement Officer of the requirement of a site plan approval, special use permit, subdivision approval, or a use or area variance, an applicant may request a pre-application conference with the Planning Board or Zoning Board of Appeals, as may be applicable.

Section 5. Chapter 140 Amendment

Chapter 140 of the Code of the Town of Rochester **§ 140-27. Conversions of residential or nonresidential structures.** shall be amended as follows.

§ 140-27. Conversions of residential or nonresidential structures.

Any conversion of a residential structure to a more intensive residential use or a nonresidential use shall require a special use permit. Similarly, the conversion of any nonresidential use to multifamily dwellings shall require a special use permit **and shall be regulated by the standards of §140-26.** The following additional review criteria shall apply in both instances:

- A. There shall be adequate parking to accommodate the new use in combination with other activities on the property or in the vicinity.
- B. There shall be demonstrated sewage treatment and water supply capacity to serve any increased needs connected with the new use.
- C. The conversion shall not result in increased residential density exceeding that permitted within the district.

Conversion of a residential structure to a nonresidential use shall not be permitted where the new use is not otherwise allowed. Adaptations of any such structure should preserve its architectural integrity and residential character, except for minimal signage, required parking and other features mandated by the nature of the business.

Section 6. Chapter 140 Amendment

Chapter 140 of the Code of the Town of Rochester **§ 140-33. Resource recovery, vehicle junkyard and wrecking facilities.** shall be amended as follows.

§ 140-33. Resource recovery, vehicle junkyard and wrecking facilities.

- A. Purposes. These regulations are enacted for the purpose of establishing minimum health and safety standards for junkyards in the Town of Rochester as well as controlling their location. They are enacted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 136.1 of the Town Law.
- B. Scope. These regulations shall apply to all junkyards now existing or hereafter proposed in the Town of Rochester. No junkyard shall be created except in conformance with the standards herein, and all junkyards shall be required to conform to said standards or be removed at the owner's expense.
- C. Exemptions.
 - (1) The following land uses shall be exempt from these requirements provided they are not maintained in the manner of a junkyard and do not include a junkyard operation:
 - (a) Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.
 - (b) Agricultural equipment which is utilized as part of an active farming operation or contractors' construction equipment which is part of an active contracting business.
 - (c) Automobile repair businesses or automobile, vehicle and equipment sales operations managed by state-licensed dealers.
 - (2) No right to establish or continue a junkyard operation shall be conveyed by the existence of a New York State license or the presence of any of the above activities on a site.
- D. Definition. The term "junkyard" shall mean:
 - (1) An area of land, with or without buildings, used for the storage of metal, glass, building materials, machines, wire, pipe, appliances, equipment, automotive, recreational or other vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other disposition of the same. Any place where three or more old, secondhand, abandoned, partially disassembled, dilapidated or unlicensed vehicles or parts of vehicles, no longer in condition for legal operation on the public highways, are stored outside for any purpose for a period of one year or more. The Town of Rochester Building Inspector(s) shall determine when a vehicle or part thereof shall meet these conditions and it shall be the burden of the landowner in such instance to demonstrate conclusively, within a period of seven days after notice, that a vehicle is legally operable at the present time if he or she shall disagree with the Building Inspector's determination.
 - (2) Ancillary businesses located on a junkyard lot or lots that are part of the same site and site plan if one is a matter of record, including but not limited to vehicle and equipment sales, rental operations, repair operations, other sales activities, services, and processing operations, whether directly related to the primary junkyard function.

- E. License required. No person, partnership, association, or corporation, being the owner or occupant of any land within the Town of Rochester, shall use or allow the use of such land for a junkyard unless a license has been obtained and maintained as herein provided, which license shall be applied for concurrently with application for site plan review and special use approval hereunder. The ~~Code Enforcement Officer Building Inspector~~ shall issue a license within 10 days after approval of the application by the Town Planning Board pursuant to these criteria. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the ~~Code Enforcement Officer Building Inspector~~ and shall be renewed annually based on inspection by the ~~Code Enforcement Officer Building Inspector~~ and approval by the Town Board as to continued compliance with these standards. No license shall be issued until the ~~Code Enforcement Officer Building Inspector~~ has received:
- (1) A written application from the applicant on the form provided by the Town ~~Code Enforcement Officer Building Inspector~~.
 - (2) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.
- F. Transfers of license. The license may be transferred to a new owner of a junkyard provided all the requirements of this chapter pertaining to new junkyards are met and a new application is submitted.
- G. Disapprovals. Any disapprovals shall be in writing and include the reasons ~~therefor~~ ~~therefore~~. The ~~Code Enforcement Officer Building Inspector~~ shall not issue a license in any instance where the Planning Board has not approved the site plan and given special use approval.
- H. Right to enter and inspect. The ~~Code Enforcement Officer Building Inspector~~ shall enforce all the provisions of this chapter and shall have the right, at all reasonable times, to enter and inspect any junkyard. The Town Board shall specify the frequency of such inspections, but no less than four times per year, and set fees by resolution to cover costs involved.
- I. Orders to correct. If the ~~Code Enforcement Officer Building Inspector~~ finds that a junkyard for which a license has been issued is not being operated in accordance with the provisions of this chapter, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within 10 days after the service of such order.
- J. Suspension of license. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within 10 days after the service of such order, the ~~Code Enforcement Officer Building Inspector~~ may suspend such license and the holder of the license shall thereupon terminate the operation of such junkyard.
- K. Expiration of license. Any license which is not used for the purpose intended within 12 months of the date of issuance shall automatically expire and the junkyard shall be removed in its entirety.
- L. Standards applicable to new junkyards. All new junkyards shall conform to the following standards:
- (1) No part of any junkyard shall be located closer than 500 feet to an existing public right-of-way or adjoining property line, or 1,000 feet to a church, school, health care facility, public building, or place of public assembly.
 - (2) New junkyards shall, moreover, be permitted only in the NR Natural Resources and I Industrial Districts. ~~New Junkyards are not permitted in the AP, FD, and HD Overlay Districts.~~

- (3) All new junkyards must erect and maintain an eight-foot fence or dense natural screening along the boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals. Such fence or screening shall also substantially screen the junkyard from public view at all times of the year and otherwise comply with the requirements of § 136 of the General Municipal Law. The fencing or screening shall, in the case of properties that are upslope or downslope from the grade level of the adjoining highway, be adjusted in height and density to accomplish the purpose of screening the junkyard from view. Any material within the junkyard shall be screened from view from adjoining highway(s) and properties.
 - (4) No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.
 - (5) All dismantling operations shall take place inside an enclosed structure and any parts of vehicles or equipment shall similarly be stored inside an enclosed structure. All vehicles awaiting dismantling or retained for sale or use intact shall be stored in paved surface parking areas specifically designated for this purpose, which areas shall be buffered as required in this section for the junkyard as a whole.
 - (6) The Planning Board, in acting upon the special use application for any new junkyard, shall consider aesthetics and the impact on surrounding property consistent with the demands of § 136, Subsections 7 and 8 of the General Municipal Law.
 - (7) All waste oils and similar waste products shall be stored and/or disposed of consistent with local and state requirements and best industry practices.
- M. Standards applicable to existing junkyards. All existing junkyards shall conform to the following standards to be administered by the Town Building Department based on the inspection and report as to compliance with the standards of this chapter:
- (1) Existing nonconforming junkyards shall, within a period of one year following the effective date of this chapter, be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations provided below.
 - (2) Applications for licenses to continue operating existing nonconforming junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one year following the effective date of this chapter. All licenses shall, thereafter, be renewed by April 1 of each calendar year.
 - (3) Applications for licenses to continue operation of existing nonconforming junkyards shall include a site plan depicting the existing operation and any planned improvements as may be required by this chapter.
 - (4) Yard requirements applicable to new junkyards shall not be further violated. All existing junkyards proposing to expand shall include an eight-foot-high fence or screen along the side and rear boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals.

(5) All fencing or screening must be approved by the Town Building Department and produce a screen through which one generally cannot see. Various materials, including evergreen screening or existing forest cover, may be used. The Town Building Department may also take measures, such as securing injunctive relief, to ensure maintenance of such fencing or screening.

N. Existing junkyards shall not be expanded except in conformance with the regulations contained herein for new junkyards, and in no case will any change in an existing junkyard that would lessen its conformity with these regulations be permitted. Any person or persons proposing to establish or expand a junkyard in the Town of Rochester shall prepare site plans of the same to be submitted to the Planning Board under special use/site plan review procedures.

Section 6. Chapter 140 Amendment

Chapter 140 of the Code of the Town of Rochester **§ 140-36. Vehicle and equipment sales, service, and repair.** shall be amended as follows.

§ 140-36. Vehicle and equipment sales, service, and repair.

- A. Whenever a vehicle and equipment sales, mechanical and body repair use is proposed as a special use, or as an expansion of an existing nonconforming use, the following additional performance standards shall apply:
- (1) All automobile or vehicle parts, new or used, shall be stored within buildings, or screened.
 - (2) Vehicles that are temporarily on the property awaiting repair shall be stored in an area which meets the minimum yard **setback** requirements applicable for the district and the use. **Vehicle storage shall preferably be in the rear or interior of the repair structure**
 - (3) Vehicle and equipment sales shall be limited to those districts specified on the Schedule of District Regulations and be subject to the following additional regulations:
 - (a) A site plan designated and improved parking space meeting the standards contained herein shall be provided for each vehicle or piece of equipment displayed.
 - (b) Display areas for vehicles and pieces of equipment shall comply with front and side yard setbacks applicable to principal structures.
 - (c) Signs connected with vehicle and equipment displays shall be limited to permanent or temporary signs otherwise permitted hereunder.
 - (d) **Additional off-street parking areas shall be provided for the use of customers at the rate of one space for each 10 vehicles or pieces of equipment displayed outdoors. No on-street parking shall be permitted. Off street parking shall be in the rear or side of the established use.**
 - (e) Lighting of outdoor vehicle and equipment sales areas shall be limited to pole or wall lighting meeting the standards contained herein for commercial lighting.
 - (f) The Planning Board may require landscaping of vehicle and equipment sales operations, as provided herein, to separate and buffer them from the public right-of-way and adjoining properties.
 - (g) All vehicle and equipment sales operations shall provide a permanent (suitable for year-round use), heated sales office of no less than 150 square feet in size and restroom facilities.

Section 8. 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, provision, or application.

Section 9. 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.