



# Zoning Alignment Project

Rochester 2034 Moving Forward

## DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT

Adoption of a new  
Zoning Code and Map  
City of Rochester, NY

Accepted September 11, 2023

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*Comments accepted until January 31, 2024*



Malik D. Evans, Mayor



City of Rochester, NY  
Rochester City Council



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## EXECUTIVE SUMMARY

The proposed Zoning Code and Map implement a land use planning and regulatory approach that aligns with the recently adopted City of Rochester Comprehensive Plan, *Rochester 2034*. They aim to position the City for welcoming new residents and businesses, while preserving and improving quality of life and economic vitality for existing residents and businesses. The Placemaking Plan in *Rochester 2034*, along with community and staff input, guided the development of the proposed Code and Map.

Adoption of the new Zoning Code is a legislative action that may affect the size, type, and form of development permitted in the City. This generic Environmental Impact Statement (EIS) is prepared pursuant to 6 NYCRR 617.10(a) “generic EISs may be broader, and more general than site or project specific EISs and should discuss the logic and rationale for the choices advanced.” The GEIS discusses the proposed Code and Map changes, impacts that may result, and proposed mitigation measures provided through the Zoning Code and other City Codes.

The existing Zoning Code and Map were adopted in 2003 and have been changed by many incremental amendments since that time. For its time, the existing Code was progressive in many ways, including the significant reduction in parking requirements, legalization of uses in nonconforming preexisting historic buildings, and design requirements. The existing Zoning Map generally reflects the public desire at the time to downzone many residential areas of the city to R-1 Low-Density Residential. This desire was in response to the declining population, increase in vacant buildings, a decrease in home ownership, and concern about protecting properties in at-risk neighborhoods. The City has changed in the last 20 years and these changes, documented in *Rochester 2034*, require changes to the existing Zoning Code and, most critically, to the existing Zoning Map. Additionally, zoning codes across the country are always being upgraded and modernized based on land use trends, transportation trends, population distribution, environmental needs, etc.

Changes to and redistribution of zoning districts, as depicted in the proposed Zoning Map, were guided by the *Rochester 2034* Placemaking Plan. Comparisons between the proposed Map, the existing map, and earlier maps show how the map is changing and restoring districts to previous zoning. The proposed Map aims to focus growth and density along bus routes and commercial corridors, while reducing the problem of buildings being nonconforming. The draft Zoning Map assigns a street type designation to all streets in the City. These designations are drawn from the City’s Comprehensive Access and Mobility Plan, Street Design Guide, as reflected in *Rochester 2034*. Street types greatly impact land use and guided the placement of Zoning District boundaries.

Changes to the Zoning Code impact the allowable uses in each district, parking regulations, procedural requirements, and more. There are negative and positive impacts that result when changes are made to the Zoning Code. The impacts are particularly relevant when a property is “upzoned” (i.e., increased density, more intense uses allowable). Potential impacts include the attraction of more people, increase in potential for noise and traffic, increased height of buildings, and changes to the character of buildings and neighborhoods. These are impacts that primarily affect adjacent properties both within the district and in a neighboring district when a property is on a district boundary line. Mitigation for these impacts is built into either the Zoning Code or other chapters of the City Code.



## I. INTRODUCTION

### A. Overview

The proposed Zoning Code and Map implements a land use planning and regulatory approach that aligns with the adopted City of Rochester Comprehensive Plan, *Rochester 2034* (“Plan”), and positions the City to welcome and promote new residents and businesses, while preserving and improving quality of life and economic vitality for existing residents and businesses. This multi-year undertaking to revise the Zoning Code and Map to be consistent with and align with the Plan is known as the Zoning Alignment Project or ZAP.

### B. SEQR process

In accordance with the New York State Environmental Review Act (SEQR), a long form Environmental Assessment Form (EAF) was completed in June 2021, briefly describing the project. After reviewing the EAF, the Mayor and City Council entered into a Lead Agency Agreement on July 9, 2021, for the purpose of coordinating the review process. In accordance with the requirements of Section 12-12 of the City Charter, at their December 9, 2021 meeting, the Rochester Environmental Commission recommended that a Generic Environmental Impact Statement (GEIS) be completed for this project. On July 21, 2022, Mayor Malik Evans signed a Positive Declaration, setting in motion the preparation of the GEIS. As required, the Positive Declaration was posted in the New York State (NYS) Environmental Notice Bulletin (ENB) on September 14, 2022. A draft scope was provided to the public on May 22, 2023, for review and comment, and appeared in the ENB on June 21, 2023. It was finalized on July 11, 2023, and appeared in the ENB on July 19, 2023. The final scope is an outline of the issues to be addressed in this GEIS.

Pursuant to 6 NYCRR 617.10(a) “(g)eneric EISs may be broader, and more general than site or project specific EISs and should discuss the logic and rationale for the choices advanced.” The proposed action is legislative, not project-specific, and does not directly result in physical changes to the environment. The proposed adoption of the new Zoning Code may affect the size, type and form of development permitted in the City. As such, the proposed action is “generic” in nature in that it is not a specific development, but rather it constitutes policy and regulatory changes that will alter the range of future development options.

A GEIS is prepared when a proposed action represents a comprehensive program having wide application and defining the range of future projects in the affected area. A GEIS, according to the NYS Department of Environmental Conservation SEQR Handbook, is “...(a) type of EIS that is more general than a site-specific EIS, and typically is used to consider broad-based actions or related groups of actions that agencies are likely to approve, fund, or directly undertake.” The SEQR Handbook specifically identifies “area-wide zoning” as the type of activity for which a GEIS is prepared. “... A GEIS differs from a site or project-specific EIS by being more general or conceptual in nature.”

This GEIS describes the proposed Code and Map and how they seek to respond to the directives of *Rochester 2034*, emerging land use issues/trends, major foreseeable impacts, community concerns, and mitigation of those impacts/concerns.

### C. Public engagement

#### 1. Building on public engagement of Rochester 2034

Preparing the proposed Zoning Code and Map is a transparent process with many opportunities for community engagement throughout the process. Public input for this project, however, actually started with

the input received for *Rochester 2034*, which has a significant land use and development component, and for which nearly four thousand community members provided input in one or more of the following ways:

- Sit down community engagement meetings with over 50 neighborhood groups and more than 100 stakeholder agencies and organizations across the city
- Nearly 50 outreach events and “pop-ups” at the Rochester Public Market, libraries, City recreation centers (R-Centers), public housing communities, settlement houses, social service providers, Foodlink mobile markets, the Celebrate City Living expo, local colleges and universities, and other community-based venues
- An online survey in English and Spanish (also available in paper)

*Rochester 2034* is codified in Chapter 130 of Rochester City Code and provides directions to inform the ZAP. The community participation and input for the proposed Zoning Code and Map focused on proposed changes that go beyond the direction provided in *Rochester 2034*, as well as the more detailed parcel-specific mapping needed for new zoning district boundaries to complete a new Zoning Map.

## 2. Overview of community participation and input

Over the course of the preparation of the proposed Code and Map, there were and continue to be opportunities for the community to be involved.

*Table 1 Public Participation*

Public Participation Opportunities	Timeframe
Initial stakeholder meetings to gather code-specific direction from several different groups, including neighborhood presidents, developers, urbanists, gardeners, housing professionals, etc	Late 2020 and Early 2021
Project Website with information, access to presentations, and a public comment portal	Early 2021-present
Public meetings related to sections of the draft Zoning Code text development and Zoning Map development	Early 2022- Late 2023
SEQR process, including Public Hearing	Late 2023 - early 2024
City Council approval process	Late 2024

Meetings were held through on-line meetings and in-person meetings to provide multiple ways for people to access a meeting. Meetings were held in various locations throughout the city to bring information and access closer to people.

## 3. The City Planning Commission as the project steering committee

The Rochester City Planning Commission (CPC) serves as the advisory board across the entire process through a series of public meetings at key points during the four-year ZAP timeframe. This ensures regular check-in and feedback from the CPC, as well as regular opportunities for any interested community members to

participate and share their thoughts. The CPC helped and will continue to help facilitate input and revisions during the Zoning Code and Zoning Map development phases. After the SEQR process is complete, the CPC will make a formal recommendation, as required by §12-13 of the City Charter, to City Council about whether to approve the final updated Zoning Code and Zoning Map.

There are a number of reasons for using the CPC in this role, rather than assembling and appointing another group to do so. The CPC:

1. Provides an organizational structure that is already in place, codified, and subject to NYS Open Meetings Law;
2. Has jurisdiction and authority with respect to Zoning Code and Map changes and the City's Comprehensive Plan;
3. Has training and working knowledge on a range of planning and zoning issues specific to Rochester's existing Code;
4. Is demographically and geographically diverse (includes at least one representative from each City Council district) and are all city residents;
5. Is diverse in professional background and expertise, including land use, real estate, and architecture; and,
6. Functions as an independent board, with members jointly appointed by the City Administration and City Council

#### 4. The State Environmental Quality Review required public input process

In accordance with §6NYCRR 617.9(a)(4), the required minimum comment period for a Draft GEIS is 30 days. For this project, however, the comment period is extended beyond the minimum requirement to over 130 days. The deadline for comments can be found on the DGEIS cover. In accordance with City Charter section 12-12E., the Rochester Environmental Commission (REC), the City commission designated as the environmental advisory agency for the City, is assigned to assist with the public review process for the Draft GEIS as follows:

- The REC presides over the required Public Hearing on the Draft GEIS.
- During a meeting following the public comment period, the REC will recommend disposition actions for each substantive comment received on the Draft GEIS.
- Following the release of the Final GEIS, the REC will make an advisory recommendation, as required by Charter §12-12.E(3), to City Council about whether to approve the updated Zoning Code and Map.

#### 5. The approval processes

After the Final GEIS and final draft of the Zoning Code and Map are released, a special CPC public informational meeting will be held, followed by a recommendation by the CPC to City Council on whether to approve the updated Zoning Code and Map.

The final decision to adopt the updated Zoning Code and Map lies with Rochester City Council, which will conduct a public hearing as part of its decision-making process. If adopted, the updated Zoning Code and Zoning Map will be codified in Chapter 120 of City Code.

## II. EXISTING SETTING

### A. Location

The City of Rochester is located in Monroe County, New York on the southern shore of Lake Ontario. The City encompasses approximately 36 square miles and is the fourth largest city in New York State. Rochester is the center of a larger metropolitan region that includes Monroe County and the counties of Wayne, Ontario, Livingston, Orleans, Yates, and Genesee.

### B. Population and Land Use

Census data showed that Rochester's population grew to 211,328 people in 2020 from 210,674 in 2010, a gain of 654 residents. While the increase seems insignificant, it is the first increase in the City population since the decennial census in 1950, when the population was 332,488. Over the last approximately ten years, the number of housing units in the City increased by about 2,000 units<sup>1</sup>. Additionally, the total development value of Building Permits issued by the City has increased by 138% over the last ten years.<sup>2</sup>

Rochester is seeing a resurgence of development and new residents. People are drawn to the benefits of city living. In response to this emerging revitalization and to update the prior 1999 Renaissance Plan, the City adopted *Rochester 2034*, a 15-year comprehensive plan, to promote and guide the City's revival as it approaches its 200th birthday in 2034. *Rochester 2034* is the result of intense community and stakeholder engagement, best practice research, and technical practitioner engagement. It was broadly endorsed and unanimously adopted by City Council in November 2019. The full Plan can be reviewed at [www.Rochester2034.com](http://www.Rochester2034.com).

*Rochester 2034* stresses the importance of placemaking as an important overarching goal to cultivate a strong and unique sense of place for the City of Rochester, and to make it a place where people want to live, work, and play. How residents, businesses, and visitors interact with and experience a community is intimately related to its design. Thoughtful design, which can be informed and fostered through land use regulations, is important to creating beautiful, engaging and vital places where people want to be.

*Rochester 2034* is codified in Chapter 130 of Rochester City Code and provides specific direction to inform the proposed Zoning Code and Map. Section 130-5D. Placemaking Plan, reads:

The Placemaking Plan, Initiative Area 2 of *Rochester 2034*, shall inform an update to the Zoning Code and Map, as codified in Chapter 120 of the City Code, as well as future projects, programs, and policies related to community development, including, but not limited to, transportation, community building, parks and recreation, and arts and culture. The approximate boundaries and land use categorization of the Character Areas depicted on the Placemaking Plan Map shall guide any updated Zoning Map. The permitted uses and associated dimensional requirements of any updated Zoning Code shall be consistent with the general vision and objectives expressed in the Character Area descriptions and associated imagery, as well as other principles and recommendations expressed throughout the Initiative Area.

Conventional land use regulations have long contributed to socioeconomic separations in cities. Historically, cities used zoning as a way to separate not only uses—like residential, commercial, and industrial

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<sup>1</sup> U.S. Census, American Community Survey

<sup>2</sup> City of Rochester, NY, Permit Office, 2023.

properties—but also people based on wealth, class, and race. As set forth in *Rochester 2034*, the overarching goal of social and economic equity is to right the past wrongs and create opportunity and fairness for all people, not just some people. In particular, the City seeks to promote diverse and affordable housing and neighborhood choices.

*Rochester 2034* includes a Vision and eleven Guiding Principles to provide broad guidance on the direction for land use policy in Rochester, while The Placemaking Plan (Initiative Area 2 of *Rochester 2034*) provides specific guidance and direction for land use policies and regulations. The Placemaking Plan includes numerous strategies intended to create vibrancy through an innovative and holistic approach to community investment. It addresses multiple categories of investment that, when coordinated and leveraged, contribute to healthy neighborhoods and a strong sense of place. These include parks, transportation systems, community facilities, neighborhood planning, and infrastructure- all with progressive land use policy as the foundation. The Placemaking Plan attempts to strike a balance among orderly growth, regulatory flexibility, and preservation of neighborhoods and natural assets.

The future land use component of The Placemaking Plan contains a land use map composed of “Character Areas” that are similar in nature to zoning districts. This map displays categories of various Character Areas as they are recommended to evolve over the next 10 to 15 years. Character Area boundaries are depicted on The Placemaking Plan map with gently curving edges and consistent buffers between adjacent categories. This is meant to graphically reinforce the conceptual and visionary nature of this land use plan. While the Character Areas are the foundation for creating a new Zoning Map for the City of Rochester, the proposed zoning district boundaries were developed based on additional examination of field conditions, existing land uses, and community input.

### C. Existing Zoning Code and Map

The existing Zoning Code and Map (effective January 2003) have evolved through many incremental amendments. The major objectives of the 2003 code update were:

- Developing a “user-friendly” document that is easily read and understood by City Staff, potential developers and City residents;
- Reducing the number of Districts in the City of Rochester and including a simple format to help users understand the requirements in each District;
- Including the Urban Renewal District regulations as part of the Zoning Code and use District definitions, when possible, to define specific area uses within the Urban Renewal Districts;
- Providing Additional Use Requirements for those uses that could potentially impact the character or economic viability of neighborhoods in Rochester;
- Developing specific design criteria for the downtown area (CCD);
- Including City Wide Design Guidelines and Standards to protect the character of all neighborhoods and promote the revitalization of the entire City;
- Providing Performance Standards in the Supplemental Requirements to ensure development or redevelopment does not negatively impact the City’s neighborhoods;
- Rewriting the sign regulations to simplify and make them more understandable;
- Changing the responsibilities and procedures in the City of Rochester to help streamline the development review process;
- Recognizing that non-conforming uses and structures may impact the City and determine appropriate ways to ensure their compatibility with the neighborhood;
- Clarifying the enforcement measures as they relate to violations of the new Code and Map;

- Clearly defining the words and concepts in the Zoning Code to ensure a complete understanding of the intended meaning.

For its time, the existing Code was progressive in many ways, including the significant reduction and elimination of parking requirements, legalization of uses in nonconforming preexisting historic buildings, elimination of auto-oriented detached pylon signs, and design requirements.

The existing Zoning Map generally reflects the public desire at the time to downzone the city to R-1, Low-Density Residential. This desire was in response to the declining population, increase in vacant buildings, and significant decrease in home ownership.

### III. NEED FOR THE PROPOSED ACTION

#### A. Evolution of the 2003 Zoning Code and Map

The City has changed in the last 20 years and this change, documented in *Rochester 2034*, requires changes to the existing Zoning Code and, most critically, to the existing Zoning Map.

The 2003 Zoning Code made great strides toward deregulating parking, introducing bicycle parking, allowing for adaptive reuse of historic buildings, moving toward more form-based regulations, simplifying the Code, and improving user friendliness. Any Code, however, needs to continually improve and modernize in response to changing conditions and trends.

The 2003 Zoning Map was created without the benefit of a citywide proposed land use map, so it was largely driven by:

- A strong public desire for R-1 downzoning<sup>3</sup> to reinforce and foster home ownership;
- A continuing decrease in population seemed to indicate that a “de-densification” strategy would be appropriate; and,
- A “Placeholder” concept aimed at downzoning commercial corridors to Low-Density Residential (R-1) in response to the decline in demand for and development of commercial uses. This downzoning was intended to prevent undesirable development while giving the City an opportunity to further assess how land use along commercial corridors should be repositioned.

This downzoning, however, did not contribute to an increase in home ownership, which fell by approximately 3% since 2000<sup>4</sup>. Furthermore, according to an analysis done by the City in June 2019:

- Two-family homes in the R-1 District were remaining vacant for almost five years, or twice as long as two-family homes in districts where they are “legal.”
- From 2003 to 2018 the City had to demolish 706 deteriorated or abandoned two family dwellings in R1 districts for lack of investment.

While the 2003 Code and Map attempted to respond to decades of losing population in Rochester, according to the 2020 Decennial Census, the City of Rochester is starting to grow in population and the proposed Code and Map are responding to the anticipation of further growth. Population growth in Rochester is consistent

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<sup>3</sup> Downzoning is a zoning regulation change of an area from a more intense or dense land use to a less intense land use.

<sup>4</sup>[ACT Rochester](#)

with a worldwide and national trend of people moving back to cities.<sup>5</sup> “People are drawn to cities that offer varied opportunities for education and employment, particularly in the industry and services sectors. Urbanization, in turn, has generally been a positive force for economic growth, poverty reduction and human development.”<sup>6</sup> Zoning regulations and mapping that allows for neighborhoods that are open to a range of housing options at varying affordability levels also directs growth that is equitable and vibrant. Rochester has room to continue to grow with an infrastructure constructed for a population of over 300,000. The proposed Zoning Code and Map define where and how the City will continue to grow and ensure that development of a variety of uses is allowable in all market areas of the City and not just the strongest market area. Population growth will foster neighborhood vitality and stimulate economic growth.

According to the 2019 City of Rochester Comprehensive Access and Mobility Plan (CAMP), the City of Rochester needs to improve policies and codes to support Transportation Demand Management (TDM). TDM balances the people-focused and infrastructure-focused ways in which problems like traffic congestion, infrastructure costs, parking challenges, and environmental impacts can be managed or reduced.<sup>7</sup> The CAMP states that the “lack of substantial TDM programs means that Rochester is falling behind peer cities in taking steps to reduce the rate of driving and is not managing its transportation and parking infrastructure as efficiently as it could.” While the existing Zoning Code does include some TDM-supportive regulations, namely, exemptions for parking minimums in certain districts and bike parking requirements for certain land uses, more needs to be done.

According to the CAMP, only one-quarter of Rochester residents are able to walk to essential services or activity centers in ten minutes or less. Demand analysis shows expected areas of high pedestrian activity exist further from activity centers while public outreach indicates that perceived distance is one of the biggest factors discouraging more people from walking. A recommendation offered in the CAMP is to plan for future infill development that will increase the percentage of residents who can reach destinations via shorter walks.

The Center for Transit Oriented Development has published statistics that indicate 81% of Millennials and 77% of Baby Boomers prefer to live in walkable, active communities that don’t require access to an automobile, and further indicates that by 2030, 25% of people in the housing market will be seeking housing in transit-supportive neighborhoods.<sup>8</sup> The Regional Transit Service (RTS) completed the “Reimagine RTS” system redesign study in 2018 and launched the new system in 2021. The existing Zoning Map needs to be updated to recognize and maximize transit-supportive land uses along the “Reimagine RTS” transit routes and in areas where high densities exist, such as downtown and adjacent neighborhoods. “Better enable development that supports transit use” is a directive of the CAMP and *Rochester 2034*, which drove the proposed Zoning Map and Code to increase density allowances in the City.

*Rochester’s transit system already outperforms those in many peer cities, but the overall rate of transit ridership in the city remains relatively low. For many people, the limited-service span or infrequency of service make transit uncompetitive with driving. Rochester and RTS,*

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<sup>5</sup> “Urbanization and the Mass Movement of People to Cities,” Bret Boyd, [Urbanization and the Mass Movement of People to Cities | Grayline Group](#)

<sup>6</sup> United Nations (UN) Population Division (2018) World Urbanization Prospects: The 2018 Revision

<sup>7</sup> [What Is Transportation Demand Management \(TDM\)? | RideAmigos](#)

<sup>8</sup> [www.ctod.org](http://www.ctod.org)

*the transit operator, are undertaking major efforts to redesign the transit system with a focus on efficiency and connectivity. In order to build on this effort, Rochester must also improve the transit customer experience, support efficient operations with dedicated transit infrastructure, and better enable development that supports transit use.* – City of Rochester Comprehensive Access and Mobility Plan (CAMP)

## B. Aligning with *Rochester 2034*

A new Zoning Code and Map is needed to align zoning with the City Comprehensive Plan, *Rochester 2034*. Currently, the Plan goals and land use plan adopted in 2019 are not reflected or sufficiently implemented in the existing Code and Map. New York’s zoning enabling statutes (the state laws which give cities, towns and villages the power to enact local zoning laws)<sup>9</sup> require that zoning laws be adopted in accordance with a comprehensive plan. The comprehensive plan should provide the backbone for the local zoning law.<sup>10</sup>

Growing the population is an overarching goal of *Rochester 2034*, in recognition of the need to build the critical mass of residents and consumers to support small businesses, stabilize the tax base, and revitalize the City. The 2003 Zoning Code and Map were designed for a city with a declining population. With the 2020 Census showing a slight growth in Rochester’s population and population trends in cities nationwide, as discussed above, the Zoning Code and Map must be designed to accommodate and foster continued growth.

Another overarching goal is to integrate transportation and land-use, through policies, programs, projects and regulations, also discussed above. Communities that accomplish this goal are in a better position to create efficient and equitable access to a variety of transportation modes. Land use regulations can help to enable more people to easily walk, bike, and use transit, contributing to a livable community as well as to meet the City’s sustainability goals, discussed in more detail below.

Lastly, *Rochester 2034* identified where Zoning changes are needed to address other relevant goals listed below:

- **Promote greater density along Regional Transit Service corridors** - As described above, the 2003 Zoning Map downzoned several commercial corridors, which is not conducive to a transit supportive land use plan. The City’s 2018 Transit Supportive Corridor Study recommended restoring at least a medium level of housing density and in many cases a higher concentration of mixed-use activity to some of these commercial corridors. Coordinating this change through land use/zoning mapping and bus transportation planning is needed to optimize the mutual benefits realized by people, neighborhoods, and bus ridership when this coordination occurs. Investment and growth must be focused and strategic to maximize the potential for strong corridors and healthy neighborhoods.
- **Reposition/rezone declining commercial corridors** - Rochester is at a critical point in its economic history. In the past, Downtown Rochester was the retail anchor of our entire region. Commercial areas and small businesses that provided consumer goods and services were scattered throughout the city in vibrant, mixed-use small business districts. The decline of local industrial giants,

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<sup>9</sup> General City Law §20(25); Town Law §263; Village Law §7-704.

<sup>10</sup> *Zoning and the Comprehensive Plan*, James A. Coon Local Government Technical Series, NYS Division of Local Government Services, Revised 2015, Reprint Date: September 2021, p. 1.

macroeconomic shifts that are changing the way in which our country consumes goods and services, and decades of population decline and job sprawl have left our downtown and neighborhood business corridors with fewer people and businesses than they had in the past. Some neighborhood business corridors are still healthy, but many others are struggling to maintain or re-develop their market base as people, jobs, and retail have moved to the suburbs. The 2003 downzoning of commercial corridors was a response to this decline but by making the existing commercial and mixed-use buildings nonconforming, contributed to disinvestment and blight. Rochester is now pursuing intentional and creative economic development strategies that are grounded in data and best practices from across the country. We must tap into our heritage of innovation and resilience in order to build a diverse, thriving, and equitable local economy.

- **Revise building height minimums and maximums to reflect recommended patterns of development**– The existing Code does not generally impose height maximums, an issue which is often criticized by the community. Height maximums in certain areas are suggested in *Rochester 2034* to allow building heights that are consistent with the historical development of Rochester, while promoting desirable growth and density. Height limits for new buildings bordering a residential district is a concern expressed by the community.
- **Allow built-as commercial buildings to house commercial uses as of right in residential districts and small commercial areas** - Traditionally, Rochester’s small scale, walkable neighborhoods were developed with a mix of uses, including commercial/mixed-use buildings. The 2003 downzoning led to many of these neighborhood commercial buildings becoming nonconforming, with the resulting disinvestment and blight. The proposed Code and Map are intended to prevent further abandonment of and disinvestment in existing buildings and to support the restoration of our traditional built environment.
- **Employ a “Zoning for Jobs” approach and reduce barriers for “pipeline” business development** - Small businesses have specific needs, so it is important that the proposed Code and Map support entrepreneurship and small business development and not create unintentional barriers. An out-of-date approach to classifying and permitting uses is one of the biggest barriers to small businesses and can negatively impact commercial development throughout a community regardless of scale.<sup>11</sup> The existing Code employs a use classification system that is too restrictive, frequently needs updating, and poses significant barriers. A modern approach to use classification and permission builds flexibility that can address emerging uses over time without requiring discretionary approvals when a new use is proposed.<sup>12</sup> Flexibility is needed throughout the Code to leave room for changing market conditions, creative design, and neighborhood vitality.

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<sup>11</sup> Strungys, Arista, AICP. (2016, July). Zoning for Small Business. *Zoning Practice*, American Planning Association, Issue Number 7. <https://www.cityofboise.org/media/11450/small-business-support.pdf>

<sup>12</sup> Strungys, Arista, AICP. (2016, July). Zoning for Small Business. *Zoning Practice*, American Planning Association, Issue Number 7. <https://www.cityofboise.org/media/11450/small-business-support.pdf>

Addressing a broader issue, industry must be recognized for its critical role in the success of Rochester. To facilitate the retention and attraction of job-producing industry, the Industrial Districts must have less stringent design standards, recognizing the nature of these critical businesses. Operational noise, odors, heavy trucking, and visually unattractive sites are acknowledged as sometimes unavoidable characteristics for these important employers and producers to continue, especially given that these areas are often far from residential neighborhoods. However, appropriate setbacks, screening and property maintenance must be enforced when these industrial uses are adjacent to residential areas and some street frontages.

- **Advance diverse housing options** – The number of “nuclear families” (defined as two adult, married households with children) has decreased over time. Today, less than half of city households are traditional “families” (defined as two or more people related by birth, marriage, or adoption residing together) and, of those, nearly 60% are headed by a single adult. Median household size has also decreased over time. Today nearly 70% of city households have two or fewer people and 41% of city households are individuals living alone. As jobs have left the city and as more and more city households are single people or single-adult families, median household income has also sharply declined, falling nearly 20% in constant dollars since 2000<sup>13</sup>.

About 17% of City residents live with a disability (defined as a person who has difficulty with hearing, vision, cognition, physical movement, self-care, or independent living). The City’s population is also aging and becoming more racially, ethnically, and linguistically diverse.<sup>14</sup> These demographic shifts impact people’s housing needs and preferences, as well as the scope of (and limitations to) their housing choices. For example, single individuals may not want as much space or the level of maintenance typical of a three to four bedroom single-family home, but may have trouble finding other housing options in neighborhoods that are dominated by these single-family homes. Similarly, a disabled person or an aging household may have a strong desire or need for accessible housing and single floor living. Rochester’s historic housing stock does not currently offer enough of these options.<sup>15</sup>

In addition, generational and societal shifts in housing preferences have taken place. Some of these shifts – such as the increasing interest in downtown and walkable urban neighborhood living – give the city a competitive advantage over other municipalities in the region and their limited housing choices. Other shifts, like the growing interest in new housing types such as condominiums, senior communities, co-housing, housing cooperatives, tiny homes, etc., suggest that the City’s current housing stock is outdated relative to these emerging housing preferences.<sup>16</sup>

The downzoning of 2003 substantially reduced the opportunity for diverse housing options, especially accessible affordable housing, in many areas of the city. Other restrictions such as minimum lot sizes and design standards also limit housing options. The community expressed concern about these

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<sup>13</sup> City of Rochester. Rochester 2034. Housing, *Changing Needs and Preferences*, p. 125.

<sup>14</sup> Ibid, p.125

<sup>15</sup> Ibid, p.125

<sup>16</sup> Ibid, p.125

limitations and, in responding to the community concern, a strategy of *Rochester 2034* is to encourage the development of new, creative, emerging housing types and styles that reflect the varied needs and evolving preferences of City residents.

On the other hand, many members of the community strongly urged the retention and protection of single-family homes and home ownership. The changes in the proposed Code and Map need to address a balance between these often-competing interests of creating opportunity for housing diversity with the retention and creation of single-family homes, which remains a preferred housing option for many current and future City residents.

- **Move away from strict parking minimums** - As stated in *Rochester 2034*, prioritizing parking in development decisions works against the principles of placemaking. Excess parking can stifle the economic success of a street or district, as it discourages pedestrian activity and is an inefficient use of land. Parking minimums often pose a barrier for new shops, businesses, and housing to be established, especially in cases of repurposing historic commercial or industrial buildings. While the 2003 code greatly reduced parking minimums, it needs to go further in the proposed Code, especially in mixed-use districts.
- **Further energy sustainability and climate change adaptation initiatives** - Climate change is caused by the excessive build-up of greenhouse gas emissions (GHGs) in the Earth's atmosphere and is one of the most critical challenges facing our world today. A community can reduce its carbon footprint and become more resilient by encouraging compact, mixed-use, and walkable land use patterns, along with increasing generation and use of alternative energy and increasing energy efficiency.
- **Support of urban agriculture** - Throughout the *Rochester 2034* survey and community discussions, there was a resounding community call for more gardens on vacant lots and reduced regulatory burdens to do so. The existing Code has few provisions pertaining to gardening or agriculture, which generally means that the use is not readily permitted. Other than allowing agriculture in the Public Market Village District, the only other relevant provision in the existing Code allows agricultural uses as temporary uses throughout the City with a prohibition on any permanent structures. This limited attention to the subject of agriculture has sparked a substantial amount of public support for more flexibility and allowances in the proposed Code to reduce the current regulatory barriers to gardens as a principle and long-term land use.

### C. Formatting Needs

Zoning Codes across the country are always being upgraded and modernized based on land use trends, transportation trends, population distribution, environmental needs, etc. But the organization, usability, and presentation of codes are also important elements that need updating to better serve practitioners, design professionals, and the community. The following are the key needs that guided the formatting of the new Code:

- The new Code needs to follow a consistent, structured pattern from beginning to end, reducing the need for excessive and detailed cross-references throughout the document.

- All existing definitions need to be evaluated, updated for clarity, and checked for any internal conflicts and redundancies.
- The rules of measurement for building height, setbacks, grade, lot width, rules for unique lot configurations, etc. need to be brought together in one section so that their application is clear and consistent. Most measurement standards need to be illustrated to make them understandable to the user.
- More illustrations are needed to effectively communicate information to users.
- The use of tables is needed to more clearly summarize various Code requirements.
- The integrity of land use regulation hinges on the internal consistency of the various details. Consistent terminology is needed throughout the Code.
- Terms in the existing Code are sometimes not consistent with terms used in the NYS Building Code. Where reasonable, terms should be aligned between the Building Code and the Zoning Code.

## IV. DESCRIPTION, IMPACTS, AND MITIGATION

### A. Proposed Zoning Map

#### 1. Creating the Proposed Zoning Map from the Placemaking Plan Map

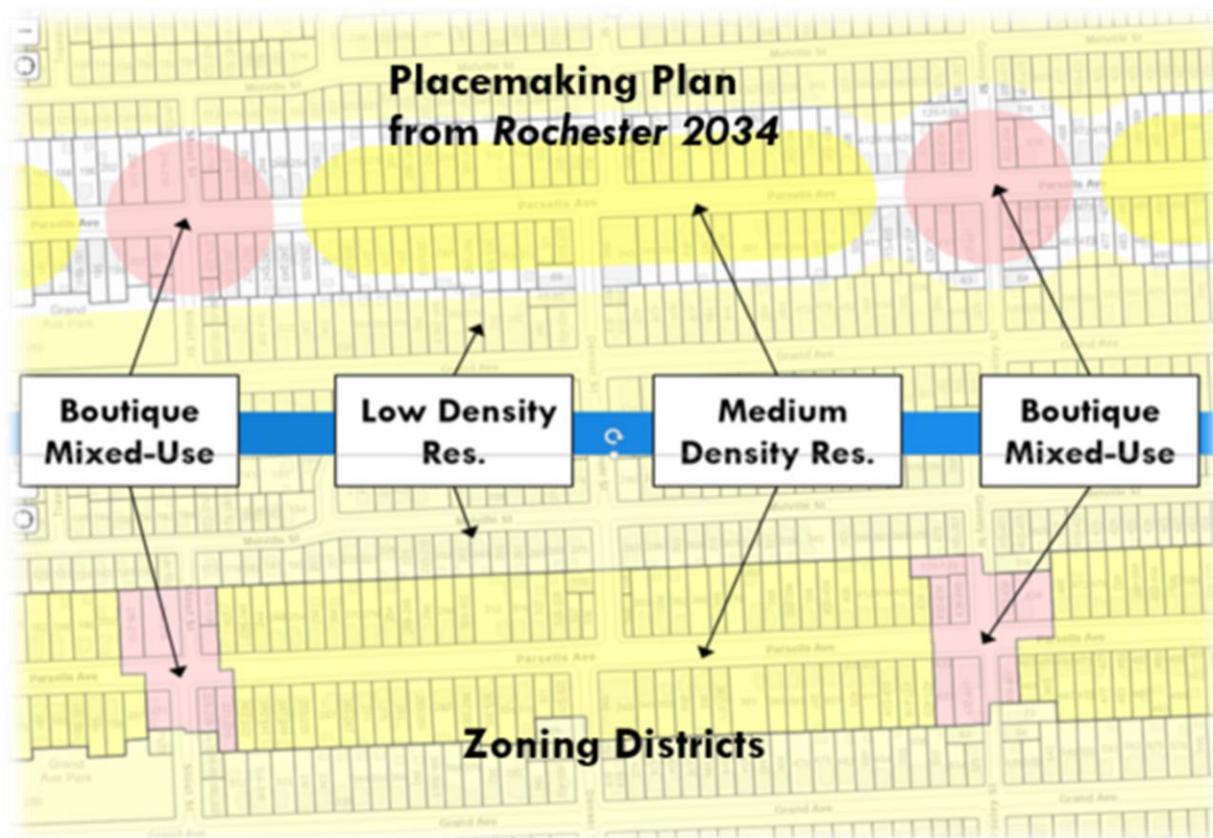
The *Rochester 2034* Placemaking Plan Map, the basis for the proposed Zoning Map, identifies categories of various land uses, or Character Areas, as they are recommended to evolve over the next 10 to 15 years. As the city is almost entirely built out and change occurs slowly, it is envisioned that much of the city’s land use patterns will remain the same. The established Character Area boundaries are depicted on The Placemaking Plan Map with gently curving edges and consistent buffers between adjacent categories. This was meant to graphically reinforce the conceptual and visionary nature of this future land use map.

Several criteria were considered in developing the Character Area boundaries, including:

- existing land use and zoning;
- current patterns of residential density;
- patterns of existing commercial and mixed-use building sizes;
- commercial and activity centers identified by neighborhood associations during the *Rochester 2034* engagement process;
- transit corridors; and
- city planning best practices.

While The Placemaking Plan Map served as the foundation for the proposed Zoning Map, zoning district boundaries must be drawn along parcel boundaries, requiring extensive meticulous examination of each boundary (See Figure 1).

Figure 1 Transition from Character Areas to Zoning Districts



City staff undertook an extensive, parcel-level review to determine the zoning district boundaries based on field conditions as well as land use and development goals and principles. In addition to the criteria listed above for the Character Areas, staff reviewed existing land uses and zoning of a property and surrounding properties, lot sizes, historical information, nearby development trends, and building types to confirm the most suitable future Zoning District.

Following this process by City staff, the proposed Zoning District boundaries were the subject of public review. The community had an opportunity to weigh in on the boundaries. City staff carefully reviewed this feedback, considered options and a variety of factors, and changes were made as a result.

Where the draft Zoning Map diverges from the *Rochester 2034* Placemaking Plan Map, the extensive review by staff and the community drove those divergences. Upon its adoption, the Zoning Map will replace the Placemaking Plan Map adopted in 2019. This will require a change to Chapter 30 of the City Code, Comprehensive Plan.

## 2. Renaming and/or Relabeling Zoning Districts

The label/name of Zoning Districts is changing from the existing Code districts to the proposed Code districts (Table 2). The new naming system was introduced in *Rochester 2034*. Residential districts will only see a

change in the numeric labeling. The R-1 Low-Density Residential, R-2 Medium-Density Residential, and R-3 High-Density Residential labels are being changed to LDR Low-Density Residential, MDR Medium-Density Residential, and HDR High-Density Residential, respectively. The reason for the label changes is that using numbers has been confusing to people by implying that the number corresponds to the number of housing units allowed in the district. For instance, R-2 is not a 2-family district; it also allows single-family homes as-of-right and multiple-family homes by Special Permit. The new labels simply abbreviate the name, which, again, is not changing.

The new label/naming system shifts from “C” or Commercial districts to “MU” or Mixed-Use districts, which is more reflective of the mix of allowable uses, both in existence and desired. The existing Code allows a mix of uses, including residential, in the Commercial Zoning Districts, so calling these districts “commercial” is misleading. The proposed Code district labeling is intended to help increase the understanding of these districts and to more accurately describe the uses permitted in the districts.

Lastly, “M-1” is a legacy label carried over from prior codes when there were multiple manufacturing districts. Changing to IND Industrial is a modernized term, reflecting that all industrial uses are not necessarily manufacturing.

The labels/names of the remaining districts stay essentially the same as the existing Code, with the exception of the new district, FMU Flexible Mixed Use. See below for a discussion on this new district.

The changes described above have no significant impact. Map and Code changes related to the districts are where impacts may occur and require discussion. The discussion of those changes is included in the sections that follow.

Table 2 Labeling and Naming System for Existing and Proposed Similar Districts

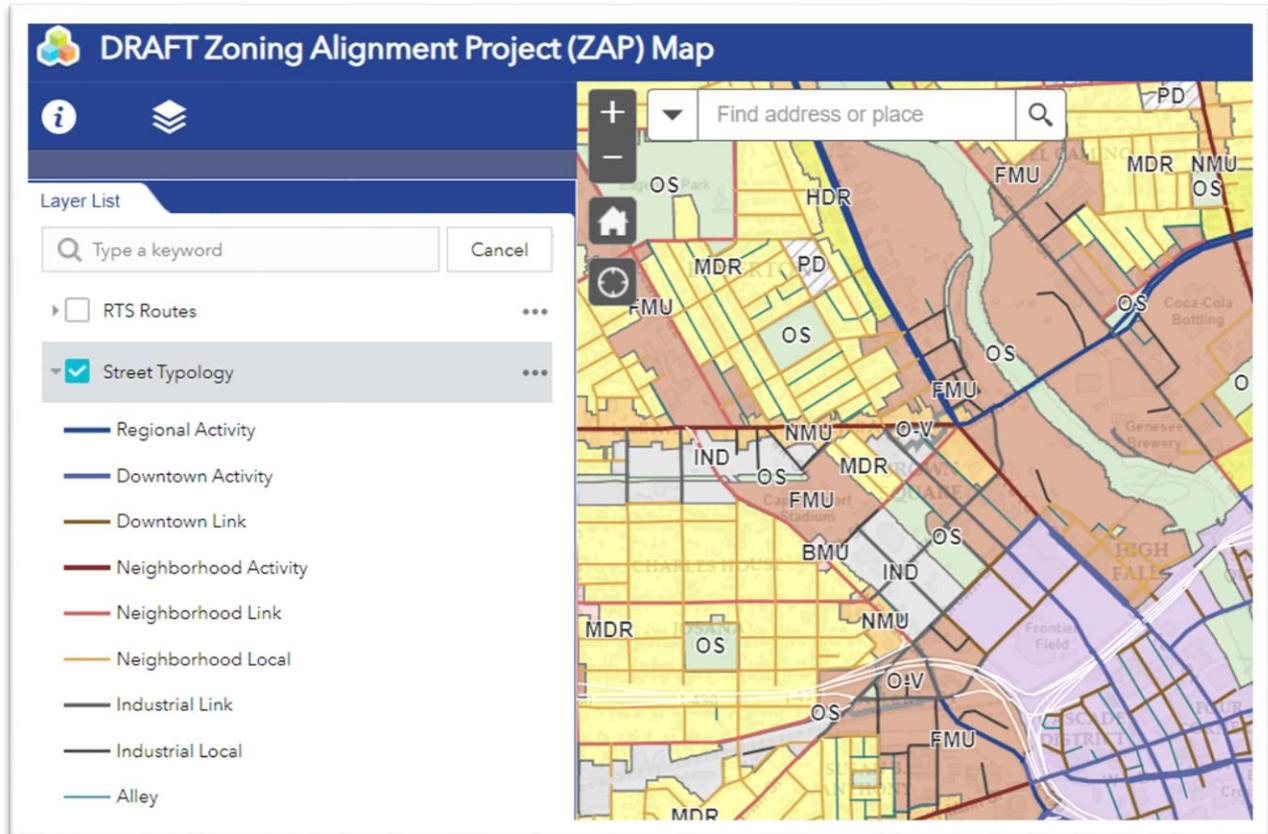
Existing Zoning Districts	Proposed Zoning Districts
<b>R-1</b> Low-Density Residential	<b>LDR</b> Low-Density Residential
<b>R-2</b> Medium-Density Residential	<b>MDR</b> Medium-Density Residential
<b>R-3</b> High-Density Residential	<b>HDR</b> High-Density Residential
<b>C-1</b> Neighborhood Center	<b>BMU</b> Boutique Mixed-Use
<b>C-2</b> Community Center	<b>NMU</b> Neighborhood Mixed-Use
	<b>FMU</b> Flexible Mixed-Use
<b>C-3</b> Regional Destination Center	<b>RC</b> Regional Commercial
<b>CCD</b> Center City	<b>DMU</b> Downtown Mixed-Use
<b>V-C</b> Village Center	<b>VC</b> Village Center
<b>M-1</b> Industrial	<b>IND</b> Industrial
<b>O-S</b> Open Space	<b>OS</b> Open Space
<b>O-A</b> Overlay Airport	<b>O-A</b> Overlay Airport
<b>O-B, O-O</b> Overlay Boutique and Overlay Office	<b>O-C</b> Overlay Commercial
<b>O-LH</b> Overlay Limited Height	<i>Replaced with height limits in District Standards</i>
	<b>O-V</b> Overlay Vehicle*
	<b>O-EP</b> Overlay Environmental Protection *
<b>U-R</b> Urban Renewal	<b>UR</b> Urban Renewal
<b>PD</b> Planned Development	<b>PD</b> Planned Development

\*These new overlay districts are explained below in the section entitled, “Detailed Analysis of Zoning District Changes.”

### 3. Addition of Street Types

The draft Zoning Map assigns a street type designation to all streets in the City. These designations are drawn from the City’s Comprehensive Access and Mobility Plan (CAMP) Street Design Guide, as reflected in the Placemaking Plan of *Rochester 2034*. Street types greatly impact land use and vice versa. These street types helped guide the placement of Zoning District boundaries and are identified on the proposed Zoning Map (See Figure 2).

Figure 2 Street Types as shown on proposed Zoning Map



a) Street Type Descriptions from the CAMP Street Design Guide

(1) Regional Activity

Regional Activity streets serve an important purpose in the regional transportation network, often serving auto-oriented commercial uses as well as institutional and industrial land uses. Travel speeds are kept low to encourage more urban land use patterns on nearby low-density or undeveloped parcels along these corridors. The design goals for redesigned Regional Activity streets are to improve street character, support current and planned land uses, maintain critical connectivity for through travel, and provide for safe movement for all modes of transportation. Examples include West Ridge Road, Upper Falls Boulevard, and portions of Lake Avenue.

In the proposed Code, the definition of this street type is:

*Street, Regional Activity. A street that serves the larger regional transportation network, often serving auto-oriented commercial uses as well as institutional and industrial land uses.*

(2) Downtown Activity

Downtown Activity streets are Rochester's principal employment and entertainment streets. They also support a number of residents, institutions, students, and workers at the highest densities in the city. These streets have specific design requirements to provide a high-quality public realm that contributes to the city's

sense of place. Future redesign of these streets should continue to create a distinctive sense of place while promoting access to downtown destinations via multiple modes of travel. Examples include Main Street, Clinton Avenue, and Chestnut Street.

In the proposed Code, the definition of this street type is:

*Street, Downtown Activity. Principal employment and entertainment downtown streets that support residents, institutions, students, and workers at the highest densities.*

### (3) Downtown Link

Downtown Link streets are connections that carry local traffic between Downtown Activity streets. Like Downtown Activity Streets, these streets serve the highest downtown densities and mixed uses. Unlike Downtown Activity, these streets may have lower traffic volumes and travel speeds should be kept low by design to support the relatively high pedestrian traffic volume. Redesigned Downtown Link streets should continue to create a sense of place on less-traveled downtown streets and accommodate all modes of transportation. Examples include Fitzhugh Street, Pleasant Street, and Scio Street.

In the proposed Code, the definition of this street type is:

*Street, Downtown Link. Streets that carry local downtown traffic between Downtown Activity Streets.*

### (4) Neighborhood Activity

Neighborhood Activity streets are primarily commercial corridors that also serve a critical role in the larger transportation network. They are unique areas that serve medium intensity mixed uses, including newer flexible mixed-uses and are defined as prime areas to accommodate infill development. Neighborhood Activity streets should support economic productivity of the corridor and enhance multi-modal access and through travel while enabling unobstructed goods delivery. Examples include Monroe Avenue, University Ave, and West Main Street outside of downtown.

In the proposed Code, the definition of this street type is:

*Street, Neighborhood Activity. Commercial corridor streets that serve to connect the larger transportation network. Neighborhood activity streets serve medium intensity mixed uses, including newer flexible mixed uses.*

### (5) Neighborhood Link

Neighborhood Link streets are predominantly residential corridors that serve a similar role to that of Neighborhood Activity streets in the transportation network. Community facilities such as parks, recreation centers, schools, or places of worship are commonly on these streets and may be interspersed with some limited commercial use. They may also serve as critical backbones of the on-street bicycle network. Redesigned Neighborhood Link streets should protect residential quality of life while accommodating crosstown connectivity via a variety of modes. Examples include Brooks Avenue, Bay Street, and Jay Street.

In the proposed Code, the definition of this street is:

*Street, Neighborhood Link. Residential corridor streets that serve to connect the larger transportation network similar to Neighborhood Activity Streets.*

#### (6) Neighborhood Local

Neighborhood Local streets provide access to local residents while inviting those residents to use the streets as public linear recreational space. They are generally located in low and medium-density residential areas. Neighborhood Local streets are not principal streets in the citywide vehicular network, but serve as an important link for pedestrians and cyclists who generally travel at lower speeds. Examples include Linden Street, Post Avenue, and Grand Avenue.

In the proposed Code, the definition of this street is:

*Street, Neighborhood Local. Streets that provide access to local residents and also provide public linear recreational space. Neighborhood local streets generally connect low and medium density residential areas.*

#### (7) Industrial Link

Industrial Link streets are regional connections that primarily serve large-scale industry, warehousing, and distribution uses. Their primary function is to support and strengthen economic activity. Examples include Buffalo Road, Lexington Avenue, and portions of Lyell Avenue.

In the proposed Code, the definition is:

*Street, Industrial Link. Regional connections that primarily serve large-scale industry, often isolated manufacturing, warehousing, and distribution uses. Industrial link streets are rarely found near residential or commercial uses, may be relatively isolated from other streets, may occur in small pockets among other street types, or may comprise an entire distinct district.*

#### (8) Industrial Local

Industrial Local streets typically serve smaller pockets of industry across the city. They are generally smaller streets than Industrial Link streets that connect to larger network link streets, but may also serve as access points to larger industrial properties. While these streets serve industrial uses and must accommodate commercial truck traffic, required travel lane width and travel speeds are lower, allowing for pedestrian and bicycle facilities as needed. Examples include Adirondack Street, Nassau Street, and Science Parkway.

In the proposed Code, the definition is:

*Street, Industrial Local. Streets that typically serve smaller pockets of industry across the City. Industrial local streets are generally smaller streets that connect to larger network link streets, but may also serve as access points to larger industrial properties.*

#### (9) Alleys

Alleys can be designed to play an important role in the street networks of commercial districts as well as residential areas. Alleys serve a useful purpose, allowing for off-street loading and unloading, garage access, and refuse removal. Dependent on context and need, the City may choose to include alleys as links in pedestrian and bicycle networks. Examples include Pindle Alley, Ruff Alley, and Daus Alley.

In the proposed Code, the definition is:

*Alley. A thoroughfare which affords only a secondary means of access to abutting property.*

#### b) Assessment of adding Street Types to the Zoning Map and Code

The City of Rochester CAMP Street Design Guide assigned a street typology to all City streets based on a street's aspirational land use characteristics and transportation function.<sup>17</sup> Both existing and "aspirational" land use were key factors in classifying a street into a typology which is the reason street types were considered critical to formulating the proposed Zoning Map and Code.

Adding street types to the Zoning Map contributes to identifying the boundaries of the Zoning Districts, they are also used in the proposed Code to be strategic in the application of design and dimensional standards for individual land uses. Outside of the DMU, street types are used to identify and regulate prominent entrances, to restrict driveway entrances for high impact uses such as junkyards and waste stations, and to establish build-out percentages in commercial and mixed-use areas.

In the DMU district, street types play a predominant role in regulatory standards. Street types drive design and dimensional standards which are different from the existing Code where regulations typically are driven by design-based subdistricts (e.g., Base, Riverfront, Cascade, etc.). While some land use regulations (e.g., permitted uses, prohibited uses) are based on districts and potential impacts of uses on surrounding uses, other standards determine how a building looks and functions in its connection with the public realm (i.e., streets, sidewalks, parks, and waterfront). DMU retains district-wide use standards for protection of enjoyment of individual properties but imposes design and dimension regulations based on the street type, to protect and enhance the public-private interface.

#### 4. Broad Analysis of Zoning District Changes

##### a) City-wide look

Table 3 below shows each district as a percentage of the total City acreage. Overlay districts are shown below the table since they overlay a Zoning District that is already counted in the main table. Following, Table 4 compares the portions of the City zoned with comparable zones on the Zoning Map in 2002, the existing Zoning Map, and the Proposed Zoning Map.

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<sup>17</sup> Nelson\Nygaard Consulting Associates, Inc., et.al, *City of Rochester Street Design Guide*, 2019, p. 2

Table 3 Proposed Zoning Districts Citywide Distribution

<b>ZAP Districts</b>	<b>Acres (approx.)</b>	<b>% of Total City</b>
<i>City</i>	23,482	100%
<i>Residential Districts</i>	11,398	49%
<b>OS</b>	4,343	18%
<b>LDR</b>	7,486	32%
<b>MDR</b>	2,897	12%
<b>HDR</b>	1,014	4%
<b>BMU</b>	143	1%
<b>NMU</b>	849	4%
<b>FMU</b>	1,164	5%
<b>DMU</b>	657	3%
<b>RC</b>	150	1%
<b>VC</b>	257	1%
<b>IND</b>	3,582	15%
<b>PD</b>	938	4%

Overlay Districts

<b>O-C</b>	135	1%
<b>O-V</b>	12	<1%
<b>O-A</b>	2,803	12%
<b>O-EP</b>	19	<1%

Table 4 Comparison in District Coverage 2002, Existing Map and Proposed Map

2002 Zoning Districts*	% of Total City (in 2002)	Existing Zoning Districts	% of Total City	Proposed Zoning Districts	% of Total City
OS	11%	O-S	17%	OS	18%
R-1	23%	R-1	41%	LDR	32%
R-2	15%	R-2	6%	MDR	12%
R-3, R-4, R-5, H-2, H-3, H-4, D-5, D-6	8%	R-3	3%	HDR	4%
C-1	1%	C-1	1%	BMU	1%
C-2	2%	C-2	3%	NMU	4%
				FMU	5%
C-4	1%	CCD	4%	DMU	3%
C-3	2%	C-3	1%	RC	1%
MUG, RH	1%	VC	1%	VC	1%
M-1	10%	M-1	15%	IND	15%
PD	4%	PD	4%	PD	4%
Other	20%				

\*There is not a direct correlation for every district

## 5. Detailed Analysis of Zoning District Changes

### a) Residential Districts

Approximately 50% of the City is within a residentially-zoned district and has been since the Zoning Map of 2002, as seen in Table 4. Table 4 also shows that during the 2003 rezoning there was a substantial increase in the amount of R-1 zoning across the city and a substantial decrease in R-2. The proposed Zoning Map rezones some of these areas from R-1 back to medium-density residential zoning, MDR, essentially restoring the map closer to the prior residential density. The 2003 downzoning did not achieve the homeownership and reinvestment results that were hoped for. See Section III.A for further discussion on the results of the 2003 downzoning. Table 5 below further breaks down the comparison in residential zoning districts between the existing Zoning Map and the proposed Map. This table shows the percent increase in the medium-density zoning and the percent decrease in the low-density zoning. Residential district changes are further explained in the following sections.

Table 5 Residential District comparisons between existing Map and proposed Map

Zoning District	Parcels (approx.)	Acres (approx.)
<b>R-1 (existing)</b>	49,680	9,513
<b>LDR (proposed)</b>	40,420	7,486
<b>Change</b>	<b>-23%</b>	<b>-21%</b>

<b>R-2 (existing)</b>	6,960	1,353
<b>MDR (proposed)</b>	15,880	2,897
<b>Change</b>	<b>128%</b>	<b>114%</b>

<b>R-3 (existing)</b>	1,700	750
<b>HDR (proposed)</b>	1,490	1,014
<b>Change</b>	<b>-12%</b>	<b>35%</b>

In determining the appropriate residential zoning district, the current residential density was mapped to inform the rezoning process. The use of each property was mapped, as shown in Figure 3 below. In this working map, each parcel is marked with a colored dot that indicates the current use of the property (e.g., a light-yellow dot indicates that the property is occupied by a single-family dwelling.) The grouping of like dots, along with building type, street type, bus route, etc. informed the mapping of the proposed districts.

Figure 3 Residential Density Working Map



(1) Low Density Residential (LDR)

The LDR District is substantially similar to the R-1 District of the existing Zoning Map (Table 6). In fact, 78% of the current R-1 zoned parcels are proposed to be zoned LDR. Seventeen percent are proposed to be rezoned MDR. The remaining percentages are generally boundary cleanups. Much of this acreage going from R-1 to MDR is a restoration of the zoning districts downzoned in 2003.

Table 6 Rezoning of Currently-Zoned R-1 Parcels

Percent of R-1 Parcel Acreage	
Total R-1 parcels	100%
R-1 parcels proposed to be LDR	78%
R-1 parcels proposed to be MDR	17%
R-1 parcels proposed to be HDR	3%
R-1 parcels proposed to be a mixed-use district*	2%

\*DMU, FMU, NMU and BMU

It is important to keep in mind, however, that the Code provisions for the R-1 and LDR districts are not identical. What is the same is that these two districts are intended to be the lowest density residential districts. The proposed Code differences (e.g., uses permitted and associated dimensional regulations) are in a later section.

(2) Medium Density Residential (MDR)

A comparison of the mapping of the two medium-density residential districts (i.e., R-2 and MDR) reveals that the geography is not changing drastically (Table 7). Eighty-three percent of parcels zoned R-2 remain in MDR on the proposed Zoning Map.

Table 7 Rezoning of Currently-Zoned R-2 Parcels

Percent of R-2 Parcel Acreage	
Total R-2 parcels	100%
R-2 parcels proposed to be LDR	3%
R-2 parcels proposed to be MDR	83%
R-2 parcels proposed to be HDR	9%
R-2 parcels proposed to be a mixed-use district*	5%

\*DMU, FMU, NMU and BMU

There is not a direct comparison, however, between the proposed MDR zoning and the current R-2 zoning because the uses allowed by the proposed Code for the medium-density residential district are changing. The biggest change is the existing Code for R-2 allows up to two housing units, while the proposed MDR allows up to four units, subject to conversion standards, including a parking analysis. See the discussion about Code changes in the next section.

### (3) High Density Residential (HDR)

Ninety percent of the currently-zoned R-3 parcels are proposed to remain in HDR. The rezonings to HDR primarily focus on putting existing apartment complexes into the correct zone – HDR. Complexes such as Cedarwood Towers, Harris Park Apartments, Norton Village, Fernwood Park Apartments, Glenwood Gardens, and Ramona Park Apartments are all examples of this correction of the new map. In addition, the existing land use data (e.g., # of units per parcel) of certain areas indicated that certain areas are more consistent with the density of HDR. An example of this is the Corn Hill Neighborhood and the area along Park Ave between Alexander and Meigs Street. Overall, approximately 425 acres were not zoned High-Density Residential (R-3) on the existing map and will be zoned HDR on the proposed map.

### b) Mixed-use Districts

Rochester’s dramatic loss in population since the 1950s, whether it be from traditional neighborhoods or upper story apartments, is directly correlated with the decline in traditional storefront shops. Higher-density development along commercial corridors contributes to establishing a critical mass of residents (customers) who will support local businesses. The proposed Zoning Map rezones many corridors based on the Placemaking Plan which used building types, bus routes, and information gathered from the community on commercial centers, to inform where critical commercial nodes and corridors should be mapped. Mapping zoning districts that more closely match the built-as character of a street allows easier processing for financing, rehabilitating and reoccupying pre-existing structures. This change can help position legacy commercial corridors for revitalization.

Additionally, a critical mass of residents (and businesses) is needed to support the high-frequency bus routes designated by RTS. In turn, high-frequency transit supports the residents and businesses by offering options for mobility. These corridors provide an option in the Rochester region for people who choose not to or cannot use a private car.

The proposed map aims to reverse the 2003 well-intended but unsuccessful “Placeholder” concept along commercial corridors, to offer more options for reuse of vacant buildings and parcels. The proposed zoning recognizes these legacy commercial areas as potential future mixed-use corridors or higher density residential areas that support nearby businesses and transit corridors, furthering the goals of *Rochester 2034*. By removing the stigma of their non-conforming status from these existing buildings, financing options will be more available and reoccupation and restoration more likely.

While the proposed zoning districts intend to foster economic growth and additional housing opportunities, nearby residents may experience additional on-street parking demand, increased traffic, and more noise. Mitigation is built into the regulations of the Zoning Code which is discussed later in Section IV.

### (1) Boutique Mixed-Use (BMU)

The BMU district is generally composed of residential uses and small-scale commercial uses that offer convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations are low intensity, unobtrusive, and conducted at a scale and density compatible with the surrounding neighborhood. BMU is comparable to the C-1 district in the existing and former maps. The

amount of coverage of this low-density mixed-use district is not substantially changing. Across all three zoning maps (See Table 4), this district covered and will continue to cover about 1% of the City.

(2) **Neighborhood Mixed-Use (NMU)**

The NMU district is defined by diverse commercial development along transportation corridors with a dense mixture of residential, commercial, service, and institutional uses, along with some light industrial uses, such as artisanal production (e.g., microbreweries). NMU districts are generally larger in area and building scale than BMU districts and are comparable to the C-2 district in the existing and former maps. The amount of coverage of this mixed-use district is proposed to increase to 4% compared to 3% in the existing map and 2% in the former map.

(3) **Downtown Mixed-use (DMU)**

Approximately 650 parcels are proposed to be DMU which is 3% of the City. This is a decrease from the current CCD coverage which is 4%. About 230 parcels currently zoned CCD are proposed to be rezoned to Flexible Mixed-Use (FMU). The CCD district extends beyond the former Inner Loop boundary and the new FMU designation recognizes that some areas outside of the Inner Loop have a different character than downtown, yet deserve the same use flexibility and high design standards of the CCD. One of the CCD subdistricts, the Grove Place District, is proposed to be zoned MDR, which more closely reflects the land use in that area. MDR will provide the same protection of the neighborhood character as the other medium-density residential neighborhoods in the City.

(4) **Flexible Mixed-Use (FMU)**

The new FMU District is proposed to cover 5% of the City and is largely composed of parcels formerly zoned M-1 (See Figure 4 below). In fact, of the 1,014 acres land proposed to be zoned FMU, nearly 375 acres are currently zoned M-1. These parcels typically have obsolete manufacturing buildings with more than one story and are better suited for development of non-manufacturing uses (e.g., loft housing, offices, art studios, etc.) The existing Code requires a Special Permit for development that is not manufacturing, whereas FMU will allow that development as-of-right. This flexibility for reuse of these existing buildings will facilitate redevelopment. For more information on the new FMU District see Section IV.B.3.d) below.

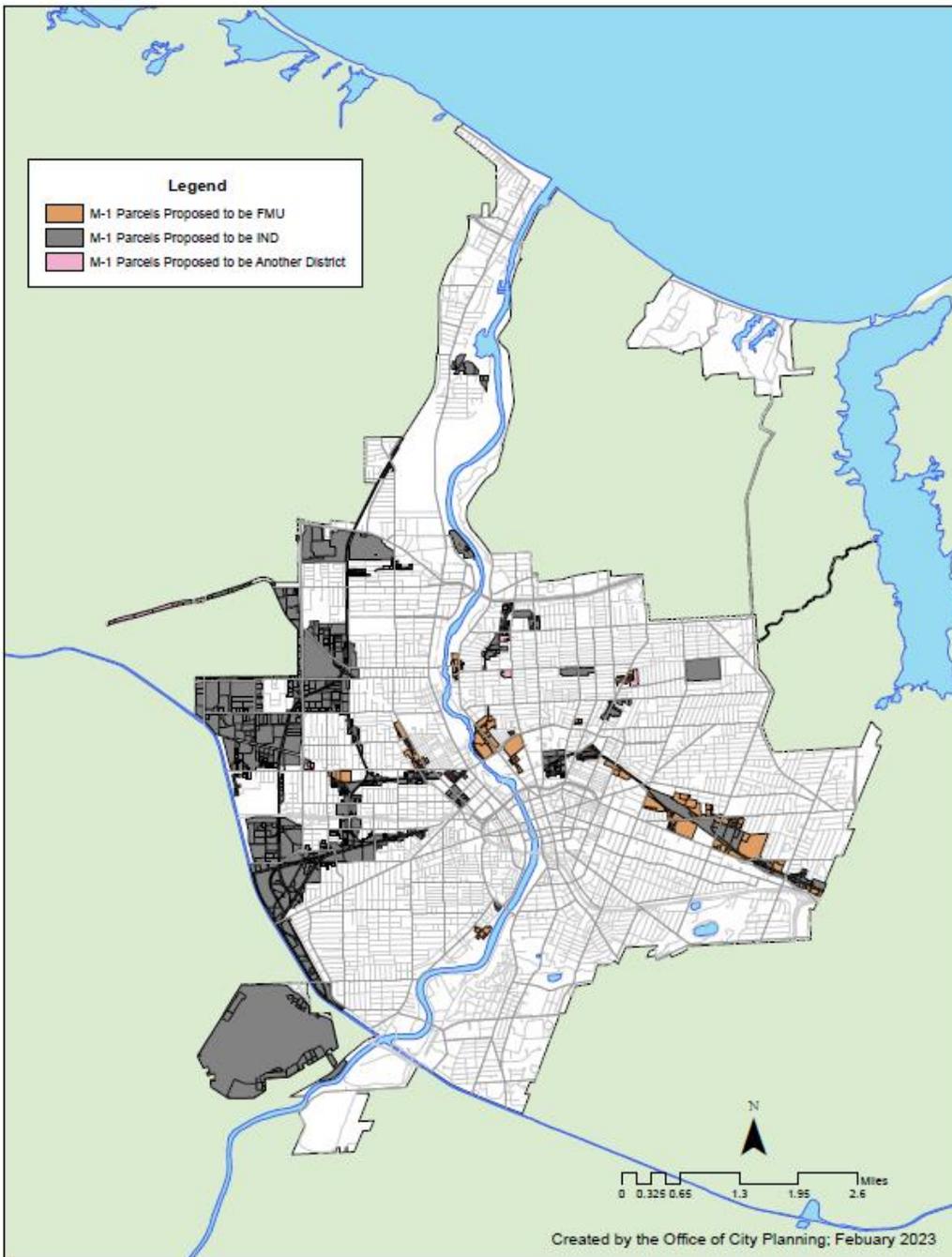
c) **Regional Commercial (R-C)**

R-C is proposed to cover 1% of the City which is the same coverage as the current, C-3 district. The areas zoned C-3 are not significantly changing on the proposed map.

d) **Industrial (IND)**

Over 87% of the parcels zoned M-1 on the existing map are proposed to remain in the Industrial District (IND) district on the proposed map. That is, nearly 3,200 acres of land are remaining in the IND District. As discussed above, about 375 acres of land zoned M-1 on the existing map are being rezoned to FMU and about 5% are going to another district (See Figure 4 below).

Figure 4 M-1 Parcels Rezoned



e) Village Center (VC) Districts

The VC Districts include Harbortown Village (H-V), Marina District (M-D), Public Market Village (PMV), and Collegetown Village (C-V). These districts remain nearly unchanged. There are some minor boundary changes to PMV, but the rest of the Village Center Districts remain essentially the same.

#### f) Overlay Districts

The proposed Code combines Overlay Boutique (O-B) and Overlay Office (O-O) into one commercial overlay district, Overlay Commercial (O-C). The change does not result in a significant change in the map, only a slight reduction in the number of parcels that have an overlay.

Two small areas of the City, or about 12 acres (0.5%), are proposed to be overlain with the new Overlay Vehicle (O-V). These two areas are around Lyell Ave, near Lake Ave and in the area of Allen St, W. Broad St., and Brown St. These areas currently have clusters of established vehicle-related businesses.

Another new overlay zone being introduced is the Overlay Environmental Protection (O-EP) District. This overlay district was created to restrict allowable uses on sites subject to cleanup under the jurisdiction of the NYS Department of Environmental Conservation. The first use of this overlay district is likely to be around the Vacuum Oil cleanup site in the southwest area of the City.

Overlay Airport (O-A) is an overlay district around the airport that requires some development within the boundaries to be reviewed by Monroe County for potential impacts on flight paths of airplanes. This overlay rarely has an impact on development. The district boundaries are not changing with the new map and the code provisions are not changing.

#### g) Open Space (OS)

This district is the zoning that encompasses the City's parks, cemeteries, and other primarily publicly-owned open spaces. The amount of acreage in the City protected under this district increased over the last nearly 25 years. As of 2002 approximately 2,490 acres were zoned O-S, with approximately 4,017 on the existing Zoning Map, and approximately 4,343 acres on the proposed map. Mapping OS on the proposed Map required a concerted effort to consistently apply the OS designation. The existing Map has O-S parcels that are absorbed by their surrounding parcels (e.g., a park that is used by an adjacent school), so they were not correctly zoned. Therefore, the proposed increase in acreage is not the result of the creation of new parks or open spaces.

### B. Proposed Zoning Code

#### 1. Overview

While the Zoning Map defines the boundaries of zoning districts, the Zoning Code provides the regulations for each district and across districts. This section explains the proposed organizational and regulatory changes, how the changes may cause impacts, and how the impacts maybe be substantially mitigated. Refer to the *Rochester 2034 Placemaking Plan* for the vision that drove the zoning district regulations.

One of the major changes in the proposed Code is how it is organized and formatted, creating a document that is logical in structure and easy to use. The proposed Code follows a consistent, compartmentalized, and structured pattern from beginning to end, reducing the need for excessive and detailed cross-references throughout the document as well as extensive scrolling within sections. For instance, the CCD regulations are 167 pages long. By comparison, the DMU section is 10 pages long, with additional regulations (i.e., General Development Standards, Accessory Structures, Parking and Loading, Landscape, and Signs) found in other sections. This compartmentalization is a great improvement for easy access to relevant regulations.

Illustrations are increased to more effectively communicate information. Regulations and terms benefit from illustrations including, but not limited to, district dimensional and design standards, measurement methodologies, landscape regulations, and signs.

Organizing uses within a table, the “Use Table,” that lists all uses by district and shows fundamental use permissions, creates a more user-friendly Code. It provides two ways “in” to the use permissions - a user can find the use of interest and look across the row to see which districts allow it, or the user can look down the district column to see what uses are allowed on a property in that district.

A new use category of the Code, shown in the Use Table, is the new *All Commercial Uses, Indoor*. This “generic use” approach combines most indoor commercial uses (e.g., bars, restaurants, offices, retail, health clubs, funeral homes, etc.) into a broad generic use category. While reducing the list of uses in traditional codes, this approach provides more flexibility in allowing emerging uses as well as ease of transitioning from one commercial use to another. Use standards and design standards become the predominant regulations.

The proposed Code encourages the mix of uses both within buildings and within districts allowing for more active, vibrant, and livable neighborhoods by offering residents shopping, services, and employment opportunities within walking distance of their homes. The proposed Code addresses this type of development both in areas that historically developed as mixed-use areas, as well as areas of redevelopment that have been identified for new mixed-use development. The Code acknowledges the diverse range of mixed-use opportunities available - from vertical to horizontal mixed-use development, its role in infill development, and how unique existing mixed-use areas such as the Downtown and the waterfront can be enhanced.

To ensure quality new development, district regulations and use regulations in the proposed Code incorporate design standards. The proposed Code retains most of the design standards of the existing Code while also allowing creative and contemporary approaches to development and redevelopment. Further, form-based elements are included in both the dimensional standards through controls such as build-to zones and build-to percentages as well as within the design standards. These standards help to ensure a more comprehensive physical compatibility with both adjacent buildings and the larger public realm.

The proposed Code sections, *Use Standards* and *General Development Standards*, generally correspond to sections of the existing Code entitled *Additional Requirements for Specified Uses* and *Requirements Applying to All Districts*. A major difference, however, is that Parking, Landscaping, and Signs are pulled out into individual sections in the proposed Code due to their length and complexity. These are discussed in detail in Section IV.C.

The *Rules Of Measurement* for building height, setbacks, grade, lot width, unique lot configurations, etc. are brought together into one section (See the last Article of the proposed Code) so that their application is clear and easy to find. This section is fully illustrated to assist in understanding measurement requirements and to ensure understanding for consistent and fair application of the Code.

Lastly, the proposed Code attempts to better align with the NYS Building Code. When a building permit application is started, getting zoning approval is the first step in the approval of that building permit. The existing Code contains term inconsistencies (e.g., Zoning Code = Rooming House, NYS Building Code = Boarding House) and inconsistencies in standards (e.g., different floor area for Home Occupations). These inconsistencies are confusing to the public and the administrators of the two codes. This is substantially corrected in the proposed Code by making definitions and standards consistent and using like terms when establishing code thresholds (e.g., Occupancy limits for “Places of Assembly”).

## 2. Residential Districts

### a) Low-Density Residential (LDR)

The Low-Density Residential (LDR) district is intended to maintain residential areas at relatively low densities. The LDR District is a distinct urban area that is characterized predominantly by owner-occupied, single-family detached and attached homes and as-built or legally converted two-family homes, but often contains a diverse mix of other preexisting higher-density residential uses. The district includes and encourages home occupations and other live-work options and permits low intensity commercial uses in existing as-built commercial buildings. The district requirements are intended to preserve and promote neighborhoods characterized by unobstructed front yards, typically with open front porches and pedestrian-scale streetscapes.

Major code changes impacting the LDR:

- While the proposed Code does not allow the construction of new two-family dwellings, it proposes exempting existing legal two-family homes in the LDR from the abandonment provisions for nonconforming uses. In other words, if a legal two-family home is vacant for more than a year, it can still be reoccupied as a two-family dwelling. This is a departure from the existing Code where deconversion back to a single-family dwelling is required. Requiring deconversion can be costly, causing owners and potential owners to walk away and abandon the vacant building. The proposed Code is trying to reduce and eliminate vacancies and facilitate rehab and occupancy. Allowing a vacant two-family building to be reoccupied as a two-family dwelling in LDR can effectively accelerate rehabilitation and reoccupancy. This also may make it easier for a potential homeowner to live in one unit and rent the second unit to facilitate affordability.

Vacant buildings are not desirable, contributing to blight and general neighborhood decline. That is why the City initiated new regulations in Chapter 90 of the City Code that become effective in January 2024. These new regulations, among other things, require registration of and fees for vacant buildings to facilitate monitoring and potential enforcement of problem properties.

Additionally, to further mitigate potential impacts of retaining existing two-family dwellings in LDR is the removal of this provision in the nonconformities section of the existing Code:

*Except a nonconforming use located in a structure not designed for any use permitted in the district in which such structure is located may be extended throughout any part of such structure; provided, however, that such expansion shall not be allowed unless off-street parking and loading spaces required for such expansion can be, and are, provided in accordance with the requirements and restrictions of Article XX of this chapter.*

The removal of this provision means that the expansion of an existing two-family dwelling into the third floor for additional space will require an Area Variance.

- The proposed Code exempts two-family, three-family, and four-family structures from the damage and destruction provisions for nonconforming structures. So, if one of these properties exists in an LDR and it burns down, it can be rebuilt. This will facilitate financing so that these properties can be more readily rehabbed and may potentially be available for owner occupants who were formerly not able to obtain a mortgage on these properties. See Section IV.C.9 for more information.

- The Prohibited Variance section in the existing Code is not included in the proposed Code, because of concerns about the need for and legal appropriateness of that provision. The stated reason for the Prohibited Variance section, to prevent the adverse impact of certain uses on adjoining properties and neighborhoods, will be better addressed by enforcing compliance with conversion standards and strict application of Use and Area Variance requirements. See Section IV.C.11 for more information.
- Pre-existing nonconforming commercial, mixed-use, or industrial buildings will be allowed certain uses, usually through a Special Permit, but some uses as of right. Use standards imposed in the proposed Code to help avoid/mitigate potential impacts include:
  - When reoccupying an existing nonresidential building in a residential district, hours of operation are limited to 8:00AM to 11:00PM.
  - When reoccupying an existing nonresidential building in a residential district, loading and unloading shall be limited to the hours of 8:00AM to 6:00PM.
  - No non-residential use in a residential district shall occupy a floor area greater than 1,200 gross square feet.
  - No non-residential use in a residential district shall have a posted occupancy limit of more than 45 people.
  - Accessory outdoor seating/activity areas are limited to the hours of 7:00AM to 11:00PM. Outdoor activities beyond 11:00PM will require a Special Permit, which requires notification to neighbors and a public hearing.

This provision is intended to put buildings that are existing and not built for a residential use back into the marketplace and in a position for financing to ensure its occupancy. They will no longer be regulated as a non-conformity. This will help avoid vacancies and blight.

To help mitigate concerns related to changes in use in the LDR, conversion of a single-family dwelling to any other use permitted in the LDR district will require approval by the Manager of Zoning through Site Plan Review. This is a change from the existing Code. Any proposed change in the LDR to a use that is not permitted in the district would not only require Site Plan Review, but a Use Variance, for which the burden of proof is very difficult. It should also be noted that while the district's name implies land uses at relatively low densities, there are many existing multi-family structures located in the current R-1 district. Such buildings will continue to legally maintain those higher densities.

#### b) [Medium-Density Residential \(MDR\)](#)

The Medium-Density Residential (MDR) district provides a mix of housing choices in an environment that is more densely populated than the LDR. The MDR district provides an urban housing density while maintaining yard and bulk regulations that preserve lower-density neighborhoods. The district includes and encourages home occupations and other live-work options and permits low intensity commercial uses in existing as-built commercial buildings. The residential areas are located proximate to neighborhood-scale shopping and service opportunities. The district requirements are intended to preserve, promote and protect a quality of urban residential living characterized by unobstructed front yards, pedestrian-scale streetscapes and buildings scaled and designed to be compatible with the existing neighborhood.

Major code changes impacting the MDR:

- MDR allows more density than the existing Code’s R-2 by increasing the number of allowed residential units on each property to four units. The existing Code allows more than two units only if a property owner gets a Special Permit from the City Planning Commission.

To avoid overcrowding, the conversion of a single to any other residential use is subject to approval by the Manager of Zoning through Site Plan Review. In addition, all conversions are subject to the residential conversion standards of the proposed Code in the section on General Development Standards. The conversion standards remain substantially the same as the existing Code, however the proposed Code requires a Use Variance for conversions that do not meet the conversion standards. This is stricter than the existing Code, which authorizes some conversions through an Area Variance.

- Similar to the LDR district, pre-existing nonconforming commercial, mixed-use, or industrial buildings will be allowed certain uses without a special process approval. The same use standards to mitigate potential impacts listed in the above LDR discussion apply to the MDR.

The change to allow more units in the MDR Districts is intended to provide opportunities for additional housing units, including additional affordable units. Strategically increasing density will bring more people to support local businesses to create more neighborhood vitality and better reflect changing household demographics and preferences.

Concerns about overcrowding related to the proposed increases in allowable density in the MDR were expressed by the community. As stated above, to mitigate potential overcrowding, residential conversion standards are carried over from the existing code. Conversion standards include Minimum Unit Sizes, Minimum Building Sizes, Minimum Lot Area Requirements, and Parking Regulations. Residential conversions of up to four units are allowed that meet these standards in the proposed Code. If the conversion does not meet the standards, both a Use Variance and an Area Variance are required. New construction is subject to the dimensional, design, and parking standards listed in the proposed Code.

#### c) High-Density Residential (HDR)

The High-Density Residential (HDR) district protects, preserves and enhances existing residential areas of higher density which include multifamily dwellings of five or greater units, mixed with other housing types. The HDR High-Density Residential District is intended to accommodate higher-density housing while protecting, maintaining and enhancing existing residential areas. The HDR District may include various housing types ranging from single-family detached to high-density apartments. The district adds to the urban character of Rochester and provides diversity in housing types, including high-rise apartment living. As in the other residential districts, the HDR district includes and encourages home occupations and other live-work options and permits low intensity commercial uses in existing as-built commercial buildings and within the first floor of buildings with 20 housing units or more.

Major code changes impacting HDR:

- This district is most closely related to the existing R-3 in which the maximum building height is limited to two times the width of the lot frontage. For example, if the property is 50’ wide, the building height could go to 100 feet. Setbacks are then determined, based on the building height. That is changing in the HDR district where, within the standard setbacks, the height can go to 65’, but to go

higher would require an additional side and rear setback of 1' for each 1' of height above 65'. This helps to limit height and mitigate impacts as buildings get taller.

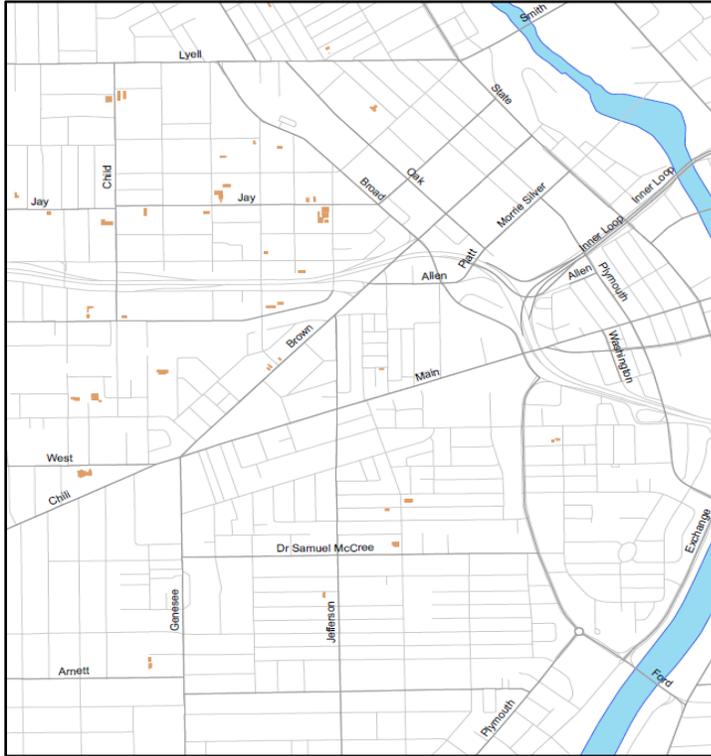
- Short term rental (STR) is a use introduced in the proposed Code. STR is first permitted in the proposed Code in the HDR District, with the understanding that if 50% or more of the units in a multi-family dwelling are STRs, then the building converts to a hotel. See more information on STRs in Section IV.C.12.

#### d) Existing Commercial Buildings in Residential Districts

Many Rochester neighborhoods were historically developed with a mix of different residential building types as well as commercial buildings, creating walkable residential neighborhoods that offered a variety of housing options with nearby goods and services. Sometimes a built-as commercial building is located in the middle of a predominantly low and medium-density residential neighborhood, which generally means that the commercial building is residentially zoned. This lack of alignment between the existing building type and the zoning district creates a nonconforming building which can lead to barriers for occupancy of the building. Lenders often will not finance a nonconforming building and rehabbing the building for residential use is often cost prohibitive and can lead to a very unattractive building conversion.

To address this problem, the proposed Code includes two columns in the Use Table labeled as “Special Considerations.” These new categories are an effort to position commercial buildings in predominantly residential areas to be reoccupied by commercial uses, subject to operational limits to protect surrounding residences. By including these buildings in the Use Table with permitted and specially-permitted uses, they are no longer “nonconforming” buildings, subject to regulations for nonconformities. Providing these properties with an easy path to re-occupancy facilitates financing and tenancy. This change is intended to help alleviate the hardships- lack of financing and bureaucracy- that can lead to abandonment of these buildings and the blighting impact on the surrounding uses. When occupied with a commercial use that is limited in its operations, the existing building can once again contribute to the vitality of a residential neighborhood. Citywide, there are approximately 70 and 130 “Special Consideration” buildings in the proposed LDR and MDR District, respectively (See Figure 5 to see an example area). These buildings will be offered the permitted and specially-permitted uses listed in the Use Table, subject to Use Regulations. It’s important to note that ONLY the existing commercially-built buildings are entitled to these additional uses, NOT vacant land around the building.

Figure 5 Map Sample of Buildings in LDR and MDR that were built as commercial buildings



e) Dimensional Standards Across residential districts

(1) Lot Size

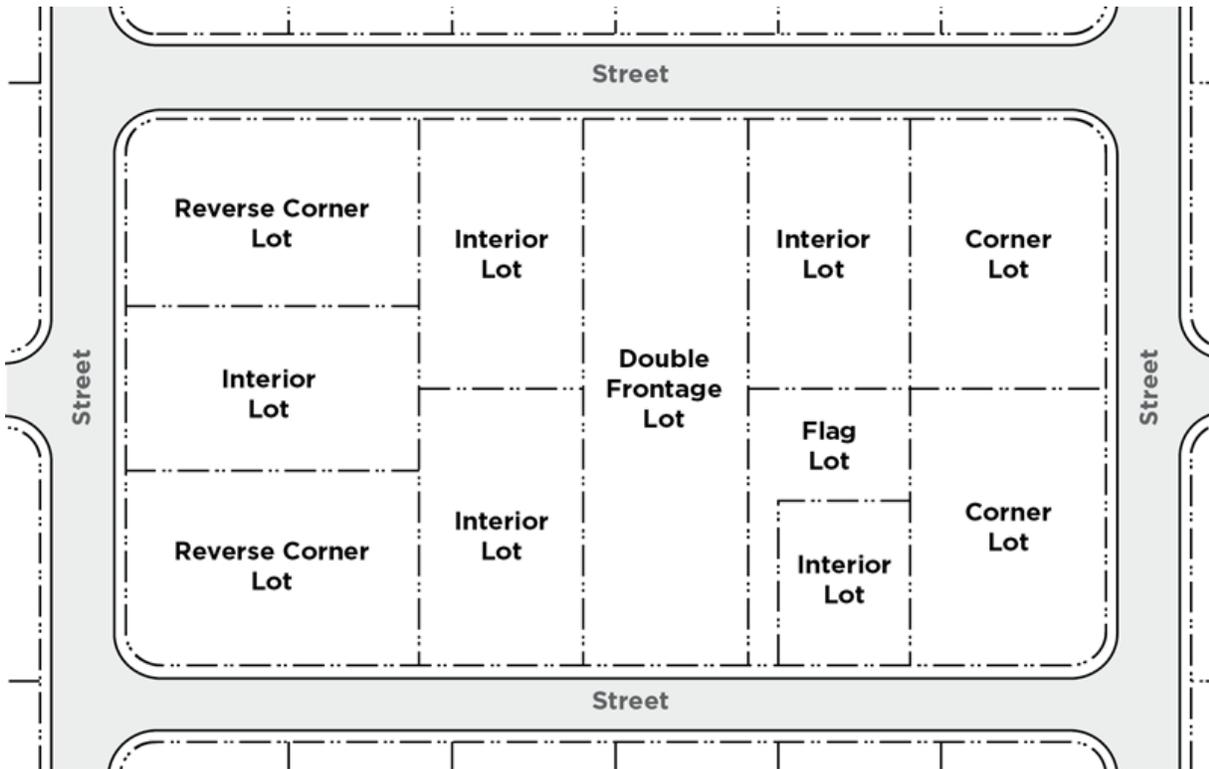
The minimum lot size regulations of the existing Code are proposed to be eliminated, relying instead on requiring a minimum and maximum lot frontage width that complements the existing neighborhood. This allows small lots to be developed upon, which can contribute to a diversity in housing styles, sizes, and affordability. Currently, lots that are deemed “substandard” or “unbuildable” because they don’t meet the Zoning Code’s minimum lot size are often simply turned into side yards for vehicle parking. Setbacks, lot coverage, and lot frontage requirements will continue to protect adjacent properties from overcrowding.

(2) Setbacks

Most residential setback requirements remain unchanged. A new concept, however, is being introduced – the Reverse Corner Lot. There has been confusion and difficulty applying the current setback requirements for corner residential lots. To address this very common situation in the city, regulations for the *Reverse Corner Lot* have been created in the proposed Code.

A corner lot is oriented in the same way as a lot located interior on a block (Figure 6). This means that the front setbacks of the homes line up. In the case of a reverse corner lot, the lot is oriented perpendicular to the interior lots. Along the length of the block, the interior lots have their front setbacks all along the street but once you hit the reverse corner lots on the end, that front lot line on the interior lot switches on the reverse corner to a corner side lot line, because the front lot line is along the other street.

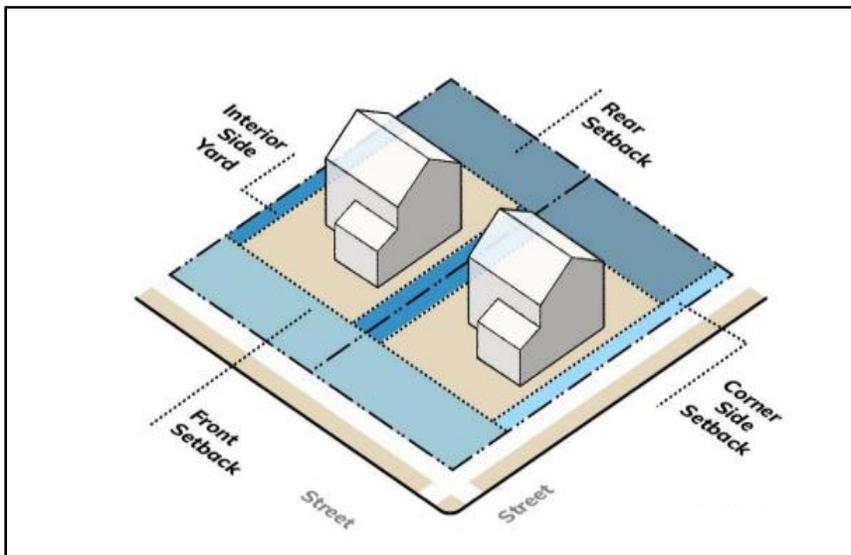
Figure 6 Lot Configurations



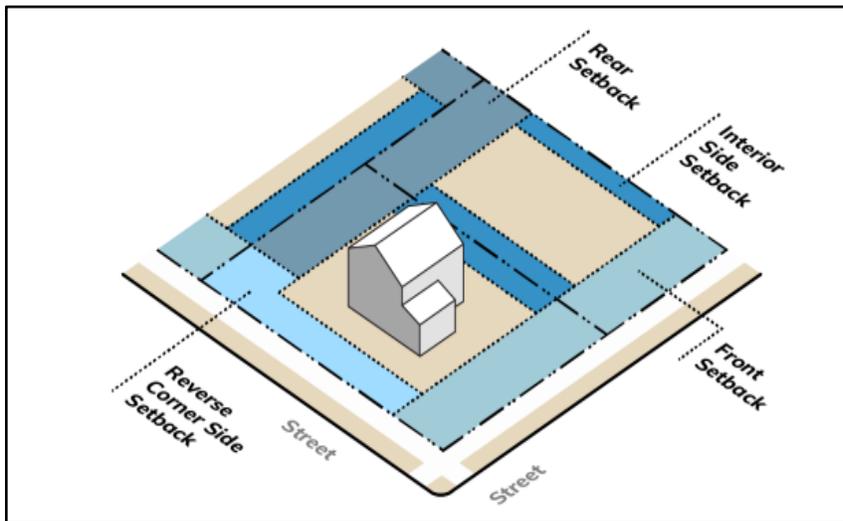
A reverse corner setback (Figure 7) continues the standard front yard for 20' from that lot line shared with the interior lot. After that first 20' this standard allows that dimension to be reduced 50% to ensure the lot is buildable and is not squeezed too tightly to build a home. This keeps the front yards "open" along the street faces of the block while the interior lots close to the ends do not feel crowded.

Figure 7 Corner Setbacks

Setback - Standard Corner Lot



Setback - Reverse Corner Lot



### (3) Lot Coverage

Lot coverage of the existing Code states that the percentage of impervious surfaces of a property cannot exceed 50%, excluding buildings under 144 square feet (e.g., a 12'X12' shed). The proposed Code changes the maximum impervious surface coverage to 60%, but impervious surfaces would include buildings under 144 square feet. Sixty percent is more in keeping with the typical residential development of the city's-built environment. Gravel parking areas and driveways are not considered permeable so they would be included in the 60% calculation. To ensure a clear understanding of this, the new definition of Impervious Surface Coverage states that gravel is to be included in the calculation of impervious surfaces.

To incentivize permeable pavement, the definition of coverage states: “When pervious paving or similar pervious surfaces are used, the area of such pervious surface is calculated at a reduced percentage of 50% for the purpose of impervious surface calculations (e.g., a 200 square foot patio constructed of permeable pavers would be counted as 100 square feet of the total impervious surface). No barrier to infiltration shall be installed beneath the material and the installation complies with the NYS Stormwater Management Design Manual and manufacturer’s instructions.”

### 3. Mixed-Use Districts

Existing commercial zoning districts are being redefined as mixed-use districts, with the exception of Regional Commercial, which is generally applied to a commercial corridor with no dwellings. The proposed regulations of all Mixed-Use districts recognize the community’s desire to maintain the historic character of the districts, provide enhanced walkability, and support a vibrant economic and neighborhood environment. This change emphasizes the critical role that housing density, whether within mixed-use buildings or as standalone structures, plays in contributing to neighborhood vitality, including supporting neighborhood businesses.

Proposed design standards complement the historic character of the city’s mixed-use districts, while recognizing that contemporary materials and designs can work to enhance the district character. The proposed Code and Map are designed to encourage density along key corridors and transit routes while requiring mitigation to prevent potential development/use conflicts along the district borders. The areas that are most vulnerable to this potential conflict are between the Mixed-Use districts and adjacent residential areas, given that these districts are often immediately adjacent to houses on side streets.

While the existing Code does not include limits on maximum building heights, the proposed Code limits building height, partially in response to community input. Minimum heights, which provide a sense of enclosure in a streetscape and reinforce urban designs, are retained. Allowing the building heights listed in the proposed Code in the Mixed-use Districts is important for several reasons:

- They reflect the historic pattern of development along Rochester’s mixed-use corridors. The proposed Code allows building heights that conform to the historic pattern of development along Rochester’s mixed-use corridors, some dating back 140 years.
- Higher density development along these corridors contributes to establishing a critical mass of residents (customers) that will support local businesses. Rochester’s dramatic loss in population since the 1950s, whether it be from traditional neighborhoods or upper story apartments, is directly correlated with the decline in traditional storefront shops.
- This critical mass of residents (and businesses) supports the higher frequency transit that RTS has for many of these corridors. In turn, higher frequency transit supports the residents and businesses by offering options for mobility. These corridors provide an option in the Rochester region for people who choose not to, or cannot, use a private car as well as those that choose a “car-lite” lifestyle of balanced transportation choices.

The following discussion describes the major differences between the existing Code and the proposed Code with respect to the mixed-use districts. It’s important to note, however, that the district boundaries have changed so simply comparing the proposed district with its existing counterpart (e.g., BMU and C-1) may not accurately describe the differences for a specific area. For example, where the new map shows a location in a BMU district does not necessarily mean that the area is currently C-1 on the existing map; a BMU district may

be a residential district currently or even C-2, so changes to a particular location may involve both code changes and map changes.

a) **Boutique Mixed-Use (BMU)**

The new Boutique Mixed Use (BMU) district, like the existing C-1, provides for residential uses and small-scale commercial uses that offer convenience shopping and services for adjacent residential areas. BMU Districts on the proposed map are always organized around a single mixed-use intersection, as opposed to multi-block mixed-use corridors, which are reserved for NMU. Proximity to residences requires that commercial operations are low intensity, unobtrusive, and conducted at a scale and density compatible with the surrounding neighborhood.

Major differences between C-1 and BMU:

- Uses- The permitted and specially permitted uses are expanded to allow more low-impact uses in this district.
  - Craft Production is a new term introduced in the proposed Code and it is first allowed in the BMU district through a Special Permit. The use is defined as *craft-related industrial processes within a completely enclosed building involving manufacturing, production, assembly, plant growing, and/or repair that includes a showroom or retail space open to the public only being within an enclosed building*. The intent of this new term is to recognize uses such as microbreweries, bakeries, creameries and other retail-based industrial uses. To address potential impacts of these new uses, it should be noted that when a characteristic or standard, such as “*within an enclosed building*”, is in definitions, that characteristic is not variable through any Variance and is a requirement of the use. The use regulations of the proposed Code limit loading and unloading to the hours of 8:00AM to 6:00PM to further mitigate potential impacts associated with this use.
  - Light Industrial is first allowed in the BMU district through a Special Permit and only when it is in an existing building. The intent is to offer some additional uses to existing buildings to boost their marketability and potential financing opportunities, while also providing employment opportunities walkable by nearby residents. To avoid negative impacts on adjacent properties, loading and unloading is limited to the hours of 8:00AM to 6:00PM.
  - Kennels are first allowed by Special Permit in BMU. By definition, kennels must be indoors. Outdoor kennels are not allowed in the city. Because it’s defined as being indoors, an outdoor operation cannot be established even with a Use Variance.
  - Short term rental (STR) is a use introduced in the proposed Code. STR is listed as a permitted use in the proposed Code in the BMU District. See more information on STRs in Section IV.C.12.
  - Vehicle repair up to two bays is allowed by Special Permit. The existing Code does not permit vehicle repair in C-1. This recognizes that small-scale vehicle repair is an essential service that needs to be walkable to nearby residents. The Special Permit is required to alert the

neighborhood that the use is being proposed and to allow conditions to be imposed if necessary to mitigate any potential negative impacts.

- In the proposed Code, vehicle fueling stations (aka gas stations) are allowed by Special Permit only when in a building designed as a fueling station. While the existing Code does not permit new vehicle fueling stations in C-1, structures designed for vehicle fueling are allowed to be reoccupied with vehicle fueling as a nonconforming structure. The two codes are essentially the same for this use.
- Existing single-family detached dwellings are included as permitted uses in the proposed BMU when they are not allowed in C-1. Building a new single-family detached dwelling, however, would not be permitted. The intent of the district is to promote density and mixed-uses, while not causing many new nonconformities. By not being labeled as nonconforming, detached single-family dwellings retain access to financing, rehabilitation, and occupancy.
- Hours- Refer to discussion about hours in Section IV.C.6. below. In the C-1 district of the existing Code, hours of operation for offices and retail sales and service are limited to 6:00AM to 11:00PM. In the BMU, hours regulations are proposed as follows:
  - Loading and unloading are limited to 8:00AM to 6:00PM.
  - Outdoor seating/activity areas are limited to the hours of 7:00AM to 11:00PM.
- Height- The existing Code does not include maximum height limits in the C-1 district so buildings can be built to any height. Concerns about this unlimited height provision of the existing Code prompted a neighborhood to pursue and get approval for the Overlay Limited Height (O-LH) District which can be overlaid upon C-1 or R-3 Districts. The overlay district was applied to the existing Zoning Map in one area of the city, about one property deep and three blocks long on Mt. Hope Avenue. It “establishes a three-story limit on building heights where there is the presence or proximity of features that would be adversely affected by the aesthetic, traffic, parking demands, and other adverse impacts associated with taller buildings.” The proposed Code recognizes the concerns about height and introduces new height maximums. The proposed height maximum for the BMU district is 40’. The proposed Code uses “feet” rather than “stories” for clarity. Additionally, this change means that the proposed zoning map no longer has a need for the O-LH District.

#### b) [Neighborhood Mixed-Use \(NMU\)](#)

The Neighborhood Mixed Use (NMU) district, similar to the C-2 District of the existing Code, encourages diverse development along transportation corridors with a dense mixture of residential, commercial, service, and institutional uses, along with some light industrial uses and craft production that serve the adjacent neighborhood and the community at large. NMU Districts on the proposed map are always organized around multi-block mixed-use corridors, as opposed to a single mixed-use intersection, which is reserved for BMU. The NMU District is preserved through appropriate design elements, amenities or treatments that create, enhance and reinforce the design relationships between the buildings, sites, and streets while establishing a character that is uniquely urban and pedestrian oriented.

Major differences between C-2 and NMU:

- Uses- The following permitted and specially permitted uses have changed, including, but not limited to:

- Vehicle fueling stations will only be allowed in a building designed for an existing fueling station, so new stations are not allowed in NMU. In the existing Code, new fueling stations are allowed by Special Permit.
  - Craft Production (e.g., microbreweries, bakeries, creameries, and other retail-based industrial uses) is allowed. The use regulations of the proposed Code limit loading and unloading to the hours of 8:00AM to 6:00PM to mitigate potential impacts associated with this use.
  - Light Industrial is allowed in the NMU district through a Special Permit and only when it is in an existing building. The intent is to offer some additional uses to existing buildings to boost their marketability and potential financing opportunities, while also providing employment opportunities to nearby residents. To avoid negative impacts on adjacent properties, loading and unloading is limited to the hours of 8:00AM to 6:00PM.
  - Kennels are allowed by Special Permit. By definition, Kennels are indoors, and as noted above, because this restriction is part of the definition, no variance for outdoor kennel space may be obtained. Outdoor kennels are not allowed in the city.
  - Short term rental (STR) is a use introduced in the proposed Code. STR is listed as a permitted use in the proposed Code in the NMU District. See more information on STRs in Section IV.C.12.
- Hours- Refer to discussion about hours in Section V.C.6. below. In the C-2 district of the existing code, permitted uses are limited to the hours of 6:00AM to 2:00AM. In the NMU, hours regulations are proposed as follows:
    - Loading and unloading are limited to 8:00AM to 6:00PM.
    - Outdoor seating/activity areas are limited to the hours of 7:00AM to 11:00PM.
  - Height - While the existing Code does not include maximum height limits, the proposed Code introduces a height maximum of 55' in the NMU. This is more restrictive than the existing code. In response to concerns about building height in the NMU, the proposed Code offers a qualification on the height limit: "That portion of the building located within 30' of an abutting LDR or MDR District lot line is limited to 40'." That is a 15' step down in height when adjacent to the residential districts: LDR and MDR.
  - Size of uses/buildings – The existing Code limits the principal use/uses or new structures to 6,000SF. In the proposed Code this limit is raised to 9,000SF for each nonresidential use, either stand alone or within a mixed-use building. This change in allowable size gives room for establishing a microbrewery or other craft production use, with ample space for retail and seating, or a small grocery store without allowing a "big box" drug store. This increase in size would also allow larger restaurants and bars, which, while increasing the economic viability and vitality of the area, could bring more parking demand. The requirements of the proposed Transportation Access Plan (TAP) seek to help mitigate those potential impacts. See Section IV.E.5 for more information about the TAP. A proposed threshold for requiring a TAP is "any place of assembly, per the New York State Building Code, such as bars, restaurants, gymnasiums, reception facilities, and theaters, with an occupancy posting of more than 75 people. "

### c) Downtown Mixed-Use (DMU)

The Downtown Mixed-Use (DMU) district, like the CCD district of the existing Code, is intended to foster a vibrant, safe, twenty-four-hour district by encouraging residential development and a broad range of commercial, office, institutional, public, cultural, and entertainment uses and activities. The regulations are intended to define and promote Downtown Rochester as the anchor for the region and as a desirable place to live, work and recreate in a dense, urban, pedestrian-oriented environment.

Major differences between CCD and DMU:

- Design – The CCD regulations, based almost entirely on form/design, have been criticized for being too narrow, limiting, and rigid and for only providing regulations relating to new buildings rather than redevelopment of existing buildings. The regulations force buildings to be constructed with a traditional design that mimics the existing buildings in the design district. DMU is less prescriptive and retains procedural flexibility for design to allow for unique and contemporary buildings in downtown Rochester.

The proposed DMU regulations shift to regulating all development and redevelopment based on the buildings interface with or “frontage” on a street or public space. For example, building frontages on an alley have minimal design standards, while frontages on a Downtown Activity Street will be required to maximize windows, entrances, and architectural detailing. Street types drive design and dimensional standards which is a different approach than the existing Code where regulations typically are driven by design-based subdistricts (e.g., Base, Riverfront, Cascade, etc.). While some regulations, such as permitted or prohibited uses, remain district-based, other standards determine how a building looks and functions in its connection with the streets and sidewalks. The DMU regulations retain district-wide use standards for protection of enjoyment of individual properties, but imposes design and dimension regulations based on the street type, to protect and enhance the public-private interface. In eliminating sub-districts, it also streamlines the development process by making downtown regulations less complicated.

The one exception to regulations being driven by street type is within the Cascade Historic District, where building materials are more limited than the rest of the DMU district, protecting its unique historic character.

Another criticism of the CCD regulations is the lack of direction for the design of parking garages. Parking garages can be stand-alone buildings, or they can be integrated into a building that contains residential, commercial, or mixed uses. The proposed Code provides design requirements for parking garages within the Code section on parking.

- Format - The DMU district regulations are formatted the same way as the other districts and fully integrated into the Code. Unlike CCD regulations, sections of the Code that apply citywide (e.g., parking, signs, landscaping, use limitations, etc.) also apply to the DMU district. The CCD regulations, which are 167 pages long, require extensive scrolling to find relevant regulations. By comparison, the design and dimensional regulations of the DMU are 10 pages long, with additional regulations (i.e., General Development Standards, Accessory Structures, Parking and Loading, Landscape, and Signs) found in other sections. This compartmentalization should reduce the need for excessive scrolling and reduce the confusion caused by two different formats.

- Procedural Requirements – The CCD regulations establish tolerance thresholds and require Site Plan Review approval for designs that are outside those thresholds. Although this was intended to be a more flexible approach than requiring variances, because of the prescriptive nature of the regulations, almost every project proposed in the CCD district requires approval through Site Plan Review, creating a procedural hurdle for development. In addition, while all the other zoning districts require an Area Variance when dimensional or design standards are not met, the approach for CCD often causes confusion for the community, design professionals, and City staff. Universalizing the procedures, while not substantively impacting design outcome, simplifies the regulations for downtown and reduces confusion.
- Height – Height regulations in the existing Code are summarized in Table 8 below. Like the other CCD regulations, height limits are organized by design districts.

*Table 8 CCD Height Limits (Existing Code)*

<b>CCD Design District</b>	<b>Maximum Building Height</b>	<b>Minimum Building Height</b>
Base	5 stories/48 feet	2 or 3 stories, depending on the street
Riverfront	6 stories/72 feet	3 stories/30 feet,
Main Street	15 stories/180 feet	5 stories
East End	4 stories/48'	2 or 3 stories, depending on the street
Tower	Unlimited	5 stories
Cascade-Canal	5 stories/60 feet	2 stories
Grove Place	3 stories/36'	1.5 stories/24'

Recognizing that density is imperative to the success of downtown Rochester, the center of the region, building owners must be able to build tall buildings for several reasons. More height means more people, whether residents or commercial tenants or both. More people bring economic vitality to downtown. Additionally, financing development, especially downtown, can be challenging. To make a project feasible and/or qualify for financing, height is needed to maximize tenancy, especially when shifting from wood frame to steel frame construction. As shown in Table 9 below, the proposed DMU district regulations will allow unlimited height for most street frontages.

To mitigate the potential for height impacts on contiguous LDR and MDR districts, such as the Grove Place neighborhood or along the DMU district perimeter, the proposed Code includes a requirement that, within 150 feet of an LDR or MDR district, the height of new buildings must be maximized at 60'. (Note: Within the Grove Place neighborhood itself, which is proposed to be rezoned to MDR, the maximum building height will be 35'.) The DMU district design standards requiring architectural

details, windows, spacing between entrances, and more, further mitigate the impacts of large buildings.

Table 9 DMU Height Limits (Proposed Code)

DMU Street Type	Maximum Building Height	Minimum Building Height
Downtown Activity	Unlimited*	48 feet
Downtown Link	Unlimited*	36'
Waterfront or Park	Unlimited*	None
Alley	Unlimited*	None

\*Height is limited to 60' within 150 feet of the nearest lot line in a LDR or MDR District (this would include the Grove Place neighborhood on the proposed Zoning Map.

d) Flexible Mixed-Use

The Flexible Mixed-Use (FMU) district is a new district intended to permit a range of uses to help revitalize clusters of existing obsolete industrial complexes and large-scale buildings that have challenges in meeting market demands. This district reflects the growing popularity of loft residences, unique businesses, artisanal crafts and production, light industrial, and creative adaptive reuse of legacy commercial and industrial buildings. While there is no “like” district in the existing Code from which to draw comparisons, most of the areas proposed to be zoned FMU were formerly zoned M-1, Manufacturing, in the existing Code. See Section IV.A.5 above for an analysis of industrial properties that are proposed to be rezoned to FMU.

The existing Code also recognizes that legacy multi-story industrial buildings in the M-1 district require flexibility for reoccupation, so it allows some commercial uses by Special Permit after a required “Marketability Assessment.”

Marketability standards of Section 120-192B.(3)(b)[1] of the existing Code:

- [a] The premises is not marketable for manufacturing or industrial purposes as demonstrated by at least one of the following factors:
  - [i] The inability to find a tenant or interested buyer over an extended period of time.
  - [ii] Physical location or locational limitations or deficiencies of the site, building or public infrastructure.
- [b] In the case of a site of one acre or less, the low potential to include the site as part of an assembly of adjacent properties for industrial purposes.
- [c] The proposed use is in conformance with the strategic plan and policies of the City for economic development and job creation.
- [d] The proposed use will provide a service to neighboring industrial uses and/or their employees.

The burden for obtaining a Special Permit that includes a Marketability Assessment creates a procedural challenge for what is likely an already challenging project. This assessment is difficult, usually requiring the property owner to go through months, sometimes years, of trying to market the property for industrial purposes, when it is commonly known that the multi-story buildings are not marketable for modern industry. The redevelopment of these buildings is clearly within the long-term best interest of the city so the proposed Code attempts to facilitate the approval process to help clear the way for reoccupation of these challenging sites. This is the focus for the proposed FMU district.

While the reuse of existing buildings is the primary goal of this district, new construction is also permitted. New construction can occur on existing vacant land within the FMU or when demolition creates vacant land. When proposed FMU districts share a district boundary line with a residential or mixed-use district, regulations will protect adjacent uses from the redevelopment/reoccupation of existing buildings and new construction/development.

Regulatory protections for projects in the FMU that are adjacent to an LDR or MDR district include:

- Height - The new FMU district regulations include a height maximum of 65' for new buildings. However, any portion of a new building located within 30' of an abutting LDR or MDR District lot line is limited to 40'. That is a 25' step down in height when adjacent to the LDR or MDR.
- Hours - Drive-through restaurants are limited to the following hours of operation: 5:00AM to 11:00PM. Loading and unloading will be limited to the hours of 8:00AM to 10:00PM Refer to discussion about hours in Section IV.C.6. below.
- Size – The maximum building length along a street for new construction or additions to a Multi-Family Dwelling is proposed to be 200' when abutting or across the street from a Residential District or BMU District. This controls the massing of buildings located directly across the street for low-density or small-scale areas.
- Setbacks - Generally, the FMU district does not require side or rear setbacks unless adjacent to an LDR or MDR district, offering protections.
- Uses - Some uses (e.g., light industrial, self-storage) are only permitted in the FMU if they are proposed within an existing building.<sup>18</sup> Other higher-impact uses (e.g., vehicle-related uses, recycling center) are allowed only through a Special Permit and only when proposed inside an existing building. Requiring uses to be within an existing building reduces visual and noise impacts.

Additional regulations to avoid potential negative impacts on residential districts are included in the proposed Code's "Use Standards and Use Definitions."

#### 4. Regional Commercial (RC)

The Regional Commercial (RC) district provides locations for regional-scaled and auto-oriented development of commercial and light industrial uses. The RC Districts are located on major arterials and, therefore, are accessible to and serve a regional market. Site design and buffering from adjacent uses mitigate impacts of traffic, operations, and scale and ensure safe and direct pedestrian access. The uses, use standards, and proposed mapping of RC Districts have not changed significantly from that of the existing C-3 District.

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<sup>18</sup> Within an "existing building" means that the building must exist as of the effective date of the Zoning Code.

Major differences between C-3 and RC:

- Uses - The permitted and specially permitted uses remain substantially the same. A notable change is that Emergency Shelters, named Homeless Shelters in the existing Code, are proposed to be allowed by right in RC, when in C-3 they are allowed only by Special Permit. Distance separation is required through use standards to avoid potential negative impacts of this use on adjacent residents. The standard states that emergency shelters shall be located at least 200 feet from any residential district lot line.
- Height - There are no height limits for new buildings in RC, which is the same as C-3. However, any portion of a new building located within 30' of an abutting LDR or MDR District lot line is limited to 40'. This is more restrictive than C-3.
- Setbacks - Generally, the RC district does not require side or rear setbacks unless adjacent to an LDR or MDR district. This is the same as C-3, however, the side and rear setback, when adjacent to a residential district, is being reduced from 30' feet in C-3 to 20' in RC.

## 5. Industrial (IND)

The Industrial (IND) district promotes the retention and growth of employment opportunities by providing a district where a broad range of industrial uses may locate and expand. Existing buildings and sites that lend themselves to modern-day industrial operations are mapped IND. Because they are uniquely positioned for siting industrial uses, the regulations are intended to protect the buildings and sites for industrial uses and not overregulate their design. This district is like the Manufacturing (M-1) district of the existing Code.

The Code recognizes industry and its critical role in the success of Rochester. To facilitate the retention and attraction of job-producing industry, the IND district must have less stringent standards than other districts. Operational noise, odors, heavy trucking, and visually unattractive sites are acknowledged as sometimes unavoidable characteristics for these important employers and producers to continue. However, appropriate setbacks, screening and property maintenance must be enforced when these industrial uses are adjacent to residential areas and on some street frontages.

There are many buildings in the city that were historically used for industry, but are now not useable for modern industrial operations, mainly because they are more than one story. These obsolete multistory industrial buildings were addressed in the existing Code with the Special Permit process for commercial and residential conversions and the requirement of a marketability assessment (Refer to the discussion in the above section on FMU). The proposed Code modifies this approach by remapping most of these obsolete industrial buildings to FMU and eliminating the need for a Special Permit to reoccupy the buildings with a variety of uses that have minimal to no off-site impacts. In fact, nearly 375 acres of land (236 parcels) that are currently M-1, are proposed to be zoned FMU. About 75 acres of land currently zoned M-1 are proposed to be rezoned to a District other than FMU, where the existing land use is clearly not industrial. An example includes seven acres of M-1 land at 100 Fernwood Avenue owned by the Rochester Housing Authority proposed to be rezoned to Medium-Density Residential.

While the proposed Map reduces (See Figure 4 above) the IND districts to areas of the city best suited for industry, the proposed Code, through the Use Table (Table 3-1 of the proposed Code), limits the allowed uses in order to provide focus on industrial development. Since providing space for industrial growth and development is so critical to the economic vitality of Rochester and the region, non-industrial uses are only

allowed in pre-existing multistory buildings that remain within an IND district. Focusing on industrial development is imperative.

To protect adjacent residential districts, the proposed Code includes the following standards for a “heavy industrial use” in an IND district:

- No curb cuts or driveways shall be located within 150 feet of any residential district, planned development, or open space district lot line, as measured from the lot lines of the heavy industrial use, excluding any right-of way.
- No trucks, tractors or trailers shall be maneuvered, parked, fueled, stored, loaded, or unloaded within 100 feet of any residential district lot line, as measured from the lot lines of the heavy industrial but excludes any right-of-way.
- No vehicles or equipment accessory thereto shall operate engines or motors between the hours of 10:00P.M. and 8:00A.M. the following day unless parked more than 150 feet from any residential district lot line, as measured from the lot lines of the heavy industrial but excludes any right-of-way.

## 6. Village Center Districts

The Village Center (VC) districts recognize a particularly unique setting and encourage the development of lively, pedestrian-friendly, and mixed-use neighborhoods. V-C districts offer a variety of uses, such as residential, commercial, civic, and open space, that result in areas where living, working and shopping are in close proximity to one another. The V-C district offers multi-modal transportation opportunities that include pedestrian walkways, bicycle lanes, automobile corridors, and mass transit. The unique historical, cultural, and/or neighborhood features of the area are protected as development and redevelopment occurs in this district. There currently are four Village-Center Districts, including the Public Market Village District (PMV), Harbortown Village (HV) District, Collegetown Village (CV) District, and Marina District (MD).

The *Rochester 2034* Placemaking Plan states that, “the Village Center Districts on the existing Zoning Map should supersede the Character Areas shown on the Placemaking Map, as these Districts are already design oriented and mixed-use in nature, consistent with the objectives of the Mixed-Use Character Areas.” Accordingly, the V-C districts in the proposed Zoning Map remain substantively unchanged. The district boundaries of the Public Market Village District were slightly changed to reflect the plan for expanding the Public Market.

The proposed regulations for the individual VC districts remain substantively unchanged other than being reformatted to better integrate into the proposed Code. For example, the lists of permitted and special permit uses have been brought into the Use Table and the purpose statements are collected in the first section of the Village Center section of the proposed Code. Short term rental (STR) is a new use introduced in the proposed Code. STR is listed as a permitted use in the proposed Code in the PMV, CV, and MD Districts and Specially Permitted in the HV District. See more information on STRs in Section IV.C.12.

The section of the existing Code that includes provisions for creating new V-C districts is removed in the proposed Code. The proposed Code and Map aim to foster mixed-use, pedestrian-oriented, and flexible districts throughout the city, thereby eliminating the need for new Village Center Districts.

## 7. Overlay Districts

### a) Overlay Commercial (O-C)

The Overlay Commercial (O-C) district, like the Overlay Office and Overlay Boutique districts in the existing Code, protects and enhances older residential neighborhoods along heavily-traveled streets or proximate to commercial, cultural, and employment centers. The O-C District provides an environment suitable for certain small-scale commercial uses that can coexist with residential uses without adversely affecting the primary residential character of the area. Increased use options will contribute to the preservation and rehabilitation of residential structures while protecting the residential uses. The O-C District shall not be independently mapped on the City of Rochester Zoning Map but shall be overlaid upon an existing residential zoning district that is found to be appropriate for such treatment. The regulations for the overlay district allow additional uses while prohibiting changing the residential character of the building or the neighborhood.

Over the years since the existing Code was adopted, the O-O and O-B were used interchangeably. The difference between the two districts was not practically administered. Therefore, it was decided that it would be most effective to combine them into one overlay district and the OC district was created.

To protect against negative impacts of commercial uses in the same building/area as residential uses in the O-C District, new nonresidential uses are subject to the following use restrictions:

- No permitted nonresidential use shall occupy a floor area greater than 1,200 gross square feet.
- No permitted nonresidential use shall have a posted occupancy limit of more than 45 people.
- Hours of operation for nonresidential uses are 6:00am to 11:00pm.
- Loading and unloading are limited to 8:00am to 6:00pm.

### b) Overlay Vehicle (O-V)

The Vehicle Overlay (O-V) district is a new district introduced in the proposed Code. The O-V District promotes the retention and growth of employment opportunities and consumer services by providing areas where a broad range of vehicle-related uses may locate and grow, and where historically they have been located and successful. Market conditions demonstrate that a reasonable concentration of these uses benefits the community and the businesses. The overlay is a tool that can be used to foster and preserve thriving auto-related businesses that are clustered together offering a service destination.

This overlay district is being created to recognize that there are small pockets of the City where vehicle-related uses predominate and have created a small hub or destination for vehicle sales and service valuable to the community.

Uses allowed within the O-V District are those of the underlying district, with the following additional uses permitted by right: Vehicle repair, Vehicle body work, Vehicle sales. These permitted uses are subject to the following standards to avoid potential negative impacts:

- Screening is required along all lot lines abutting a residential district or residential use as follows:
  - Along the rear and interior side lot line with a solid fence or wall, a minimum of six feet and a maximum of eight feet in height.
  - One shrub must be planted for every three linear feet and spaced sufficiently to form a continuous linear hedgerow at plant maturity. Plantings must be placed inside the fence oriented to the interior of the lot.

- A fence that is a minimum of 60% open shall be located along any lot line that abuts a street, excluding alleys, except for ingress/egress points. Such fence shall be four feet in height. As an alternative to a fence, shrubs may be planted at a rate of one shrub planted for every three linear feet and spaced sufficiently to form a continuous linear hedgerow at plant maturity.
- Structures are subject to a minimum of ten feet for front and corner side setbacks. Structures are not subject to any build-to lines, build-to zones, or front and corner side setbacks that may be part of the underlying district.
- Parking shall be permitted in front of the front building façade. However, parking may not be located within the required minimum ten-foot setback.
- Bays for repair may be located along any façade of the structure.

#### c) Overlay Airport (O-A)

The Overlay Airport (O-A) district prevents the establishment of flight or safety hazards within the vicinity of the Rochester - Monroe County Airport. The district recognizes the approach-departure corridors where development might endanger the lives and property of residents of the area, airport operations or aircraft. This district is being carried over from the existing Code and will require modifications in the future.

#### d) Overlay Environmental Protection

The Overlay Environmental Protection (O-EP) District is introduced in the proposed Code. Its purpose statement describes how the overlay district *recognizes the residential and commercial development permitted in the underlying district, while protecting certain properties with a known history of environmental contamination from the adverse impacts that could occur if the property were developed for all uses permitted in that district. The O-EP restrictions reduce the risk of disruption or exposure to soil contamination and prevent significant interference with remedial programs at the site. The O-EP district requires that all residential development be restricted to development of land with multiple dwelling units owned by a single owner/entity that leases the dwelling units to tenants, or with other dwelling unit types on parcels in single ownership or common ownership with all other individual dwelling unit owners. These restrictions are intended to ensure that individual owners do not undertake changes, development or improvements to the land that may cause or increase environmental impacts or inhibit or reduce the effectiveness of remediation measures on the property and to ensure that there is single owner responsibility for the reviews of remediation sites as required by the New York State Department of Environmental Conservation.*

This overlay district was created to restrict allowable uses on sites subject to cleanup under the jurisdiction of the NYS Department of Environmental Conservation. Sometimes, the sites cleanup objectives restrict future uses and do not match the restrictions listed in zoning districts. Specifically, this overlay was created to restrict certain residential uses from being a potential future development option. The use restrictions in the O-EP district will be applied to the uses permitted or specially permitted in the underlying district. The following additional use restrictions will apply to properties with the O-EP overlay:

*Single-family attached or detached dwellings, two family dwellings or townhouse dwellings constructed on individually owned parcels shall be prohibited, however, a minimum of four of such dwelling units shall be permitted if there is common ownership or a single owner/managing entity of the parcel on which the dwelling units are located.*

*Community gardens shall not be permitted unless they are constructed in raised planters or planting beds, using clean imported soil.*

## 8. Other Districts

### a) Planned Development (PD)

The Planned Development (PD) districts recognize a defined area for unified and integrated development and are intended to create more flexible development opportunities than would be possible through the strict application of the land use and development regulations of the Zoning Code. Planned Development Districts allow diversification in the uses permitted and variation in the relationship of uses, structures, and open spaces and are conceived as cohesive unified projects with unique standards and regulations.

Planned Development Districts have remained substantially unchanged.

### b) Open Space (OS)

The Open Space (OS) district preserves and enhances Rochester's open spaces and recreational areas by protecting these natural amenities and restricting development that does not respect these environmentally sensitive areas. Rochester recognizes the value and importance of open space resources for city and regional residents and, therefore, strictly limits the development of these areas. OS Districts are intended to apply to all publicly owned parks, squares, recreational areas, natural wildlife areas, the waterfront and cemeteries.

Through the mapping process for the proposed Map, inconsistencies in the application of the OS district were found. Corrections were made and an additional 141 parcels were assigned the OS designation. These parcels were located throughout the City, in every quadrant.

### c) Urban Renewal Districts

Urban Renewal areas are created to promote economic development in the City and beautification of an area in both the public and private realm while also providing the City facilitated processes to convey property to support private development. These are distinct areas with identified objectives, actions and land use plans for the purpose of eliminating substandard and deteriorated structures and other blighting influences, through demolition and subsequent redevelopment. The land use plans are reflected in the Zoning Code as U-R Urban Renewal. The U-R Districts designated by the City of Rochester include:

- Cascade Area Urban Renewal District.
- Norton Street Urban Renewal District.
- Ridgeway Urban Renewal District.
- St. Joseph's Area Urban Renewal District.
- Washington Square Urban Renewal District.
- Brooks Landing Urban Renewal District.
- Erie Canal Urban Renewal District.
- La Marketa North Clinton Avenue Urban Renewal District.
- Midtown Urban Renewal District.
- Dewey-Driving Park Urban Renewal District.
- Marketview Heights Urban Renewal District.

Any U-R districts in the existing Code that have expired<sup>19</sup> were remapped in accordance with the ZAP mapping criteria and those U-R district regulations were removed from the proposed Code. The active U-R

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<sup>19</sup> Urban Renewal Districts, by NYS law, are assigned an expiration date, usually 40 years from the adoption date. Once they expire, they can be rezoned.

Districts listed above are not reflected in the Use Matrix but are reflected in the Code text. These districts were not changed except to update the language to match the proposed Code.

## C. Other Code Changes

### 1. Definitions

#### a) [Compartmentalization of definitions.](#)

The list of uses in the Use Table, along with the definitions and standards related to those uses, are all within one section (Section 3) of the proposed Code. This organization method keeps most of the Code related to uses together for ease of application. This requires less scrolling or page turning by the user.

The definitions of general terms have been revised and remain as one of the last sections of the Code. Definitions have been updated, those no longer in use have been removed, and definitions for new terms have been added.

#### b) [New Substantive Residential Use Terms and Definitions](#)

- **Accessory Dwelling Unit (ADU).** This is a new term added to the proposed Code to clarify what this use is and where and how it can be established.
- **Boarding House.** This term replaces the term and definition for “Rooming House” in the existing Code. The name was changed to align with the NYS Building Code which alleviates confusion. It also clarifies that Fraternity and Sorority Houses will be classified as boarding houses.
- **Community Home.** This new term is added to clarify a type of residential use (e.g., sober homes, recovery homes) that was not clearly addressed in the existing Code. The definition of Community Home is “A building arranged or used for lodging and not occupied as a single-family unit, where the building is owned or operated by a New York State registered organization that provides services to residents such as counseling, training, rehabilitation, or peer support, either on-site or off-site, where residents occupy individual sleeping units. A community home shares a kitchen. Occupants do not need 24 hour supervised room, board, and care, and are capable of living independently. Examples of community homes include transitional housing and sober homes.”
- **Dwelling, Four-Family and Dwelling, Three-Family.** The existing Code includes three and four-family dwellings in the definition of Dwelling, Multifamily. Use, design and dimensional requirements are more effective by separating these uses from the multifamily uses classification.
- **Dwelling, Townhouse and Dwelling, Single-Family Attached.** The existing Code puts all units that are connected, but on separate lots, into the definition of Single-family, attached. The proposed Code pulls out those connected side by side homes, each on a separate lot, that are only two dwellings into the latter term to make dimensional and design regulations more effective.
- **Emergency Residential Facility and Emergency Shelter.** These terms replace Homeless Residential Facility and Homeless Shelter, respectively. The definitions remain essentially the same. This is updated terminology.
- **Hospice Residence.** This term recognizes a specialized housing service that is emerging across the country. It is generally defined as a residential dwelling operated for the purpose of providing care to more than two but not more than eight hospice patients.
- **Pocket Neighborhood Residential Development.** This term is introduced in the proposed Code to recognize a unique housing option that was advocated for by members of the Rochester community. The proposed Code provisions for pocket neighborhood residential development allows for small lot residential development and/or cohousing options in a manner that organizes dwellings around

shared spaces, designed as a cohesive whole, and maintained in shared ownership/stewardship by residents. A pocket neighborhood may also contain shared facilities for residents of the development, such as a common kitchen, laundry areas, or recreation and gathering spaces. This housing option could be used for co-housing construction, a new tiny-home community, or other housing configurations that allow for communal living.

- **Residential Care Dwelling and Residential Care Facility.** The proposed Code breaks down the definition of Residential Care Facility in the existing Code into two categories, distinguished by number of people ( $\leq 16$  residents,  $>16$  residents), to allow more opportunities for siting this supportive housing type.

c) [New Substantive Non-Residential Use Terms and Definitions](#)

- **Commercial Use, Indoor.** The proposed Code introduces this new term to eliminate the need to list every possible commercial use that could be established in Rochester. Instead, as long as it is indoors and not specifically listed in the Use Table, it will be regulated under this category. This will allow for more streamlined application of the code, as well as ease of understanding for applicants seeking to establish a new use.
- **Animal Care Facility.** The proposed Code introduces this new term to take in Animal Day Care (in the existing Code) and veterinary hospitals. The existing Code fails to address veterinary hospitals. It is important to note that Kennels are defined and regulated separately in the proposed Code.
- **Craft Production.** The intent of this new term is to recognize uses such as microbreweries, bakeries, creameries, and other retail-based industrial uses that, because of their low impact and desirable consumer service, can be compatible in commercial and mixed-use environments.
- **Drive-Through Restaurant.** This is a new term to identify a type of use that requires unique site development and regulations that are different from other commercial uses. This term includes restaurants with physical facilities designed to provide food/beverages to customers who remain in a motor vehicle. For uses like banks or pharmacies, where the impact of traffic queuing and noise are less likely, the drive-through aspect of the business is treated as an accessory use, as a Drive-Through Facility.
- **Drive-up Window.** This is a new term to recognize that some service windows have fewer impacts than the drive-through restaurant because there are fewer drive aisles required, no order boards, and less need for audio amplification. A drive-up window is an accessory use which is another reason why it is being distinguished from a drive-through restaurant which is always a principal use.
- **Drive-through Kiosk.** This new term is distinguished from the other uses because it operates as a principal use and is not a drive-through restaurant.
- **Entertainment (Indoor), Entertainment (Outdoor).** These two new terms replace Entertainment (Public) in the existing Code, and recognize the different impacts associated with events inside a building versus outside a building. Outdoor entertainment is distinguished from outdoor recreation in that the predominant use is spectator-oriented and not participatory. Entertainment includes uses such as stadiums, arenas, theaters, etc.
- **Firearms Sale, Manufacture, Storage, and Display.** This is a new term introduced in the proposed Code. The existing Code deferred to other regulatory agencies to completely control the establishment of this use. The proposed Code regulates to the extent that the Zoning Code is not pre-empted and only allows the use by Special Permit in the RC and IND Districts. This control, however, is limited compared to other agency regulations.

- **Junkyard.** This term is expanded in the proposed Code to include auto wreckage yards, house-wrecking yards and scrap processing yards. This eliminates the need for the existing Code’s definition for Vehicle Wrecking.
- **Motor Lodge.** This is a new term introduced in the proposed Code to acknowledge the inherent design difference between a motor lodge (motel) and a hotel. A motor lodge is vehicle oriented whereas a hotel is not, making a hotel more compatible with Mixed-use Districts.
- **Recreation (Outdoor), Recreation (Indoor).** Recreation, Outdoor is essentially the same as Outdoor Entertainment in the existing Code. It describes predominantly participant uses (e.g., miniature golf, batting cages, waterparks) that take place outside of a building. Recreation, Indoor is closely related to the term Amusement Center in the existing Code. It describes predominantly participant uses (e.g., bowling alley, pool/billiard hall, indoor child’s play facility, arcades) that take place inside of a building
- **Parking Lot/Parking Garage.** Whereas the existing Code defined several different types of parking lots/garages (I.e., Ancillary, Community, Municipal, Public), the proposed Code includes definitions for Parking Lot and Parking Garage as principle uses or accessory uses only. The impacts are the same for a parking lot/garage regardless of the “type” of parking it provides. This change simplifies the Code.
- **Self-Storage Facility.** Two new terms related to self-storage are introduced in the proposed Code: Climate-Controlled and Outdoor Access. These new terms are brought into the Code to close a gap that has been a problem with the existing Code.
- **Short-term Rental.** This is a new term introduced in the proposed Code. This is a use that has emerged since the adoption of the existing Code. The definition establishes how this use is different from a single-family dwelling, bed and breakfast dwelling, or hotel.
- **Vehicle Body Work.** This is a new term introduced in the proposed Code to distinguish body work from vehicle repair. The two uses are listed under Vehicle Repair in the existing code. Bodywork causes more impacts so separating the two uses allows more effective controls.
- **Vehicle Operations Facility.** This is a new term introduced in the proposed Code to expand on the existing Code’s definition of Truck Center to include “emergency medical care vehicles, taxicabs and similar for hire vehicles, school buses, utility vehicles, delivery vehicles, and similar vehicles.” This has been a gap in the existing Code.

d) [New "Other" Use Terms and Definitions](#)

- **Community Garden.** The existing Code is essentially silent on urban agriculture. The proposed Code introduces the term Community Garden to address the many lots used permanently by city residents for growing food and ornamental plants.
- **Educational Facility.** This term, which typically includes schools, is not included in the existing Code so if a school, usually a charter or private school, was opening it would be classified generally as a semipublic use when it really did not fit into that definition. This term essentially fills a current gap in the definitions.
- **Urban Farm.** The existing Code is essentially silent on urban agriculture. The proposed Code introduces the term Urban Farm to address land uses that are primarily agricultural and of a larger scale than Community Gardens and may include livestock, chickens and bees.

#### e) Terms related to Signs

The proposed Code includes over 20 definitions for different sign types. The existing Code includes fewer than 10 sign types. The City learned, from feedback from businesses and general administration of sign permits, including a long history of variance applications, that the sign regulations in the existing Code fail to meet the needs of businesses for a wider variety of sign types and an increase in the number of signs.

### 2. Rules of Measurement

Rules of measurement is a new section introduced in the proposed Code. While measurement methodologies have always been part of the Code, this section was added to centralize and standardize how the various dimensional and design standards of the Code are measured. This ensures that such standards are consistently measured in the same way. All methodologies are now contained within one section, rather than scattered throughout various articles. It also allows for easier future amendments to these methodologies. Finally, the measurement methodologies are supplemented with graphics to provide greater clarity in their application.

### 3. Use Regulations

#### a) Defining a use

The first and most fundamental step in regulating a use is to find the proposed use in the definitions of the Zoning Code. All proposed uses must be classified into one of the definitions (Article 13.9). The definitions include a description of the use, and the contents of this description are absolute and cannot be varied. For instance, the definition of a Bed and Breakfast Dwelling includes the description, “An owner-occupied and owner-operated dwelling unit....” If someone wants to open a bed and breakfast that is not in an owner-occupied dwelling, or that will not be operated by the owner of that dwelling, then it cannot be legalized as a bed and breakfast. Those descriptors are not waivable by any administrative procedure.

#### b) Prohibited, Specially Permitted, Permitted Uses

Once a proposed use is defined, where the use can be located starts with the Use Table (Table 3-1 of the proposed Code). Uses are regulated based on how their characteristics meet the purpose of the district in which it is located, considering the potential impacts of the use on surrounding properties. Impacts associated with a proposed use, whether the use is permitted or specially permitted, can be substantially mitigated through a special approval process – Site Plan Review and/or Special Permit. For uses that are prohibited, an applicant may seek a Use Variance, and that process is also designed to avoid negative impacts. These processes are codified to allow for the denial or conditional approval of a use to mitigate or avoid any potential impacts.

Uses that have characteristics that are incompatible with surrounding uses or the purpose of a district are prohibited in the district. This is shown in the Use Table as a blank cell. To establish a prohibited use requires a Use Variance. A Use Variance is a procedure approved or denied by the City Zoning Board of Appeals after a public hearing. The applicant has the burden of proving that the property cannot realize a reasonable rate of return (i.e., cannot make any reasonable profit) within the regulations of the Zoning District, that this economic hardship is not self-created, and that the use will not have detrimental impacts on surrounding uses. This is intended to be a difficult process to adequately protect the community while recognizing any unique hardship to the property owner that is outside of their control.

#### **Use Variance Standards**

An applicant shall demonstrate to the Zoning Board of Appeals that for the district where the property is located:

- i. The applicant cannot realize a reasonable return for each and every permitted use under the zoning regulations, provided that lack of return is substantial as demonstrated by competent financial evidence.
- ii. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
- iii. The requested use variance, if granted, will not alter the essential character of the neighborhood.
- iv. The alleged hardship has not been self-created.

Uses that have an SP in the cell indicate that the use requires a Special Permit. A Special Permit is a procedure approved or denied by the City Planning Commission. The Special Permit requirement recognizes that some uses have a special impact or uniqueness that requires a careful review of their location, design, configuration and impact. The Special Permit process provides the City Planning Commission with the opportunity to determine, against specified standards, the desirability of allowing the establishment of the use on the proposed site. The Commission decides if the use may or may not be appropriate in a particular location based on a weighing the public need and benefit against the local impacts.

#### **Special Permit Standards**

A Special Permit shall be approved only if evidence is presented which establishes that:

- i. The proposal will be in harmony with the general purpose, goals, objectives, standards and implementation strategies of the Comprehensive Plan, the Zoning Code, and, where applicable, the Subdivision Code.
- ii. The proposal will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.
- iii. The proposed application will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring properties in accordance with the applicable district regulations.

iv. The proposal will be served adequately by essential public facilities and services, such as highways, streets, sidewalks, bike lanes, transit services, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools, or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.

v. The proposal will not result in the destruction, loss, or damage of any natural, scenic, cultural, or historic feature of significant importance.

Lastly, if a use in the Use Table has a “P” in a cell, then the use is permitted in the district because its characteristics are compatible with adjacent uses and meets the purpose of the district. These uses are presumed to not have any adverse impacts on the community.

Some permitted uses, within certain conditions or locations, are subject to Site Plan Review. The Site Plan Review process recognizes that some developments and uses, even though generally suitable for a location in a particular district, are capable of causing adverse impacts. The Site Plan Review process provides comprehensive consideration of critical design elements such as materials, details, and textures, and potential impacts related to the character, nature, size, and complexity of the project. The criteria listed in the proposed Code are substantially the same as the existing Code.

**Site Plan Review Denial Criteria:**

The Manager of Zoning shall deny an application on the basis of specific written findings directed to one or more of the following:

1. The application is incomplete or contains or reveals violations of this Code or other applicable regulations which the applicant failed to supply or correct.
2. The proposed site plan interferes unnecessarily with easements, roadways, rail lines, utilities, and public or private rights-of-way.
3. The proposed site plan unnecessarily destroys, damages, detrimentally modifies or interferes with the enjoyment of significant natural, topographic, or physical features of the site.
4. The proposed structures unnecessarily destroy, damage, detrimentally modify or interfere with the significant design features of the existing buildings and structures on the site.
5. The proposed structures or landscaping bear a poor relationship to the existing development of the site or results in a development that compromises existing design, parking, or landscaping.
6. The site design does not comply with ADA requirements.
7. The proposed site plan is unnecessarily injurious or detrimental to the use and enjoyment of surrounding property.
8. There is inadequate infrastructure capacity to support the use or development.

9. The proposed site plan fails to mitigate the project's anticipated traffic impacts.
10. The proposed site plan fails to provide for adequate access for emergency vehicles.
11. The pedestrian and vehicular circulation elements unnecessarily create hazards to safety.
12. The proposed structure unnecessarily is lacking amenity in relation to or is incompatible with, nearby structures and uses.
13. The proposed site plan is unnecessarily lacking amenity in relation to, or incompatible with, nearby structures and uses.
14. The proposed site plan unnecessarily creates drainage or erosion problems.
15. The proposed structures are unnecessarily incompatible with or lacking in amenity in relation to existing uses on the site or existing building materials, roof shapes and fenestration on the site.
16. The proposed site plan fails to contribute to existing pedestrian-oriented rights-of-way and unnecessarily is lacking in amenity in relation to the public realm and streetscape.
17. The proposed site plan detrimentally impacts the visual and physical access to and along the waterfront
18. In the DMU District, the proposed site plan is contrary to, or fails to meet, the principles and objectives of the Center City Master Plan.

c) [Use Requirements](#)

Use requirements are listed and described in a key in Section 3.1D. of the proposed Code. These are requirements applied to certain uses listed in the Use Table (Table 3-1 in the proposed Code) and appear as numbers associated with permitted (P) or specially permitted (SP) uses. When the number appears, it means that the use is only allowed if it meets the noted requirements; if the use does not meet the requirement, a Use Variance is required. This is a critical limitation for uses that is intended to only allow uses under circumstances that will not likely cause negative impacts to surrounding properties. For example, Vehicle Repair is a special permit use in the BMU, however it is limited to 2 repair bays and Residential Care Dwellings are permitted in HDR, but only in existing legal dwellings.

d) [Use Standards](#)

Use standards (Article 13) place restrictions on specific uses, both permitted and specially permitted, because of potential impacts to surrounding properties. These restrictions are applied to a project to mitigate impacts including noise, off-site parking, traffic, unsightliness, odors, dust, and fumes. The standards promote the public health, safety, and character of the immediate neighborhood and the larger community.

For uses that require a Special Permit, the Planning Commission has the authority to waive the standards if it finds that the unique physical conditions of the property or the character of surrounding properties warrant it. The process for reviewing a Special Permit application requires a public hearing and provides an opportunity for public input.

For uses that are permitted, if a property owner or tenant desires to have a use standard waived, the Special Permit requirement is triggered. The use standards can only be waived through approval of a Special Permit

from the Planning Commission. As described above, prior to making this decision on waiving a use standard, the Planning Commission must apply all the standards of a Special Permit and conduct a public hearing, where there is an opportunity for public input.

#### e) Other Codes

The Zoning Code is not the only City Code chapter that regulates the manner in which a property is operated. Other chapters of the City Code regulate or mitigate impacts caused by the improper operation of a use in the City. It is the intent of the City to rely on the most appropriate Code for enforcement and not have duplicate efforts. Examples of codes that regulate the use of a property in the City include Chapters 75, 29, and 90. In Chapter 75, the Noise Ordinance, the most relevant section of this Chapter, related to the use of a property, is Section 75-4 where it states that any person in control of a premises shall not permit any excessive noise that is:

- Audible beyond the property line of the premises from which it emanates between the hours of 10:00 p.m. and 8:00 a.m.
- Audible at a distance of 50 feet beyond the property line of the premises from which it emanates between the hours of 8:00 a.m. and 10:00 p.m.
- Audible at a distance of 50 feet from the source if emanating from a public street, public park or other public place.

Another example is Chapter 29, Amusements and Entertainment. When a use in a building meets a definition in this Chapter for an Amusement Center or Entertainment Center, or if specified games are being offered, a license is required. The licensing process, through the Rochester Police Department and the City Clerk sets clear limits and if the limits are violated, the license can be revoked.

Chapter 90, Property Code, is an important tool for keeping properties, both developed and undeveloped, in good condition to protect and enhance the wellbeing of residents and businesses in all neighborhoods. This Chapter also includes provisions for Business Permits, which are required for all:

- Restaurants
- Tobacco Retailers, Hookah Lounges, and Vaping Stores
- Bars
- Automobile Service Facilities
- Salons (Hairdresser, Barber Shop, Appearance Enhancement, Tattoo Parlor, Body Piercing)
- Adult Use Cannabis Establishments

If any property is not maintained in good condition or the conditions of the Business Permit are not met, the City's Code enforcement process will commence.

These are just three of many Chapters in the City Code that work alongside the Zoning Code to protect the wellbeing of a neighborhood by avoiding or mitigating negative impacts caused by a property owner or operator. The Zoning Code does not seek to duplicate what is already being done through enforcement of those Chapters. Instead, the City Code, as a whole, aims to protect and enhance neighborhoods and the people living, working, and recreating in them.

#### 4. Design

Essential to a livable and viable city is great design of both public property and private property. According to Rochester's Comprehensive Access and Mobility Plan (CAMP), two-thirds of city residents live within a 20-minute walk of activity centers, areas identified as clusters of grocery stores, pharmacies, medical offices, and social services. As stated in the CAMP, "Rochester can encourage walking by improving the pedestrian environment, making walking a more rewarding and comfortable experience." Creating a walkable environment, where people feel safe and comfortable, is one of the key reasons for design standards in a zoning code. Additionally, design standards foster a "sense of place," or the positive feeling one gets when a location is attractive and makes them feel connected and safe. Lastly, standards protect the community from substandard building materials that cannot withstand weather or time resulting in blight that ultimately impacts the viability of a community.

The existing Code, adopted 20 years ago, introduced design guidelines and standards, trying to preserve and rebuild Rochester as it was originally built. The proposed Code retains most of these design standards while also allowing creative and contemporary approaches to development and redevelopment. For instance, design standards in the existing Code rely heavily on context. This can be seen in residential design standards, where new buildings must meet four of seven design elements of adjacent buildings. Also, in the existing Center City District, only traditional design matching adjacent buildings is allowed without being subject to an extensive approval process.

Design in the proposed Code is driven primarily by the factors discussed above relating to the creation of a built environment that is walkable, provides a sense of place, and can withstand the test of time. Standards force buildings to front on a street and avoid blank walls. If blank walls and backs of buildings face streets, people will not feel safe or connected to the area. Regulating building materials helps to ensure that buildings will withstand weather and the wear and tear on the building exterior that interfaces with people on the sidewalk. Additionally, design and building materials can address aesthetic and massing concerns and help protect neighborhood character.

City-wide design guidelines, included in Section 120-157 of the existing Code, are not being carried over to the proposed Code. Guidelines are not appropriate or useful in a code because they are too subjective and not enforceable. Land use goals continue to be expressed in *Rochester 2034* and in the purpose statements in the Zoning Code.

Neighborhood Design Guidelines, included in Section 120-161 of the existing Code, are also being eliminated. In the 20 years since the existing Code was adopted, no neighborhood has ever pursued the approval of Neighborhood Design Guidelines. This demonstrates that the codified standards are sufficient.

#### 5. Parking

Rochester continues to see a renewed interest in the benefits of city living with its walkability and other mobility options such as bike share, ride share, e-bikes, and e-scooters. Transportation alternatives to vehicle use, along with ample on-street parking, reduces the need for surface parking lots in the city. Requiring businesses to develop parking is often unnecessary and can impede business development.

*Rochester 2034* states:

*Prioritizing parking in development decisions works against the principles of placemaking. Ample [on-site surface] parking can often stifle the economic success of a street or district, as it discourages pedestrian activity and is an inefficient use of land.*

The 2003 Zoning Code substantially reduced the minimum parking requirements of the 1975 Zoning Code in response to emerging mobility trends and a desire for a vibrant urban character. The proposed Code reduces that requirement even further by eliminating minimum parking requirements in mixed-use, industrial, and commercial districts. Parking requirements in residential districts remain substantially unchanged.

While providing parking is not required outside the residential districts, property owners who need parking will be able to construct parking within the regulations for parking lots and garages. A major change in the proposed Code is the handling of parking lots/garages. The existing Code distinguishes between parking lots/garages (i.e., community parking, ancillary parking, parking as a principal use, public parking, municipal parking) which causes confusion and misunderstandings. In the proposed Code, parking is simply broken down by "Parking Lot" and "Parking Garage." These terms encompass all types of parking.

As a result of the reduction of on-site parking requirements, the demand for on-street parking will increase, which is a concern expressed by members of the community. In response to these concerns, the proposed code provides regulations to help mitigate the impacts, to the extent a zoning code has authority.

One strategy for addressing overflow parking impacts is the new requirement for a "transportation access plan (TAP)," used to assess and mitigate problematic overflow parking. The proposed criteria for when a project would require a TAP are codified as:

- Any place of assembly, per the New York State Building Code, such as bars, restaurants, gymnasiums, reception facilities, and theaters, with an occupancy posting of more than 75 people.
- New developments of 20,000 square feet or more of gross floor area. The Manager of Zoning may waive the TAP requirement based on a low-occupancy use (e.g., Warehouse).
- Within a non-residential district, a three-family, four-family, multi-family dwelling, short-term rental, or mixed-use development with a residential component that is located within 150 feet of an LDR or MDR District.
- Any development that proposes to exceed any established parking maximum.
- Development or redevelopment of the following uses:
  - Hospital
  - College/University

The proposed Code requires a TAP to be prepared by a qualified professional with demonstrated experience in transportation planning, traffic engineering, or comparable field. A TAP must include:

- The anticipated peak-to-daily transportation demand for the project.
- How the anticipated transportation demand for the project will be met on-site or off-site, including:
  - Number of off-street vehicle parking spaces to be provided.
  - Current on-street parking supply during the relevant times for project demand.
  - Any shared vehicle parking arrangements.
  - Number of bicycle parking spaces, or other bipedal accommodations, to be provided.
  - Transit options available to reach the site.
  - Available drop-off/valet accommodations.

The proposed Code requires that the TAP indicate what mitigation strategies will be employed and how the strategies will be implemented. TAP strategies may include, but are not limited to, the following:

- Walking, cycling, ridesharing, and transit promotion and education.
- Employee parking cash-out programs.
- Unbundled parking within a residential development.
- Shared parking arrangements.
- Enhanced bicycle parking and services above the minimum required.
- Support for car-share and bike-share services and facilities.
- Carpooling or vanpooling programs or benefits.
- Free or subsidized transit passes, transit-to-work shuttles, or enhanced transit facilities (such as bus shelters).
- Provision for alternative work schedules (i.e., flextime, compressed work week, staggered shifts, telecommuting).
- Promotion of “live near your work” programs.
- Roadway improvements adjacent to the site that will help encourage transportation alternatives.
- Designation of an on-site employee and/or resident transportation coordinator.

The transition away from conventional parking requirements is consistent with an emerging movement across the country to eliminate parking minimums in favor of promoting alternatives to driving.

Parking maximums, introduced in the 2003 Code, are included in the proposed Code. Exceeding the maximum parking threshold requires the preparation of a Transportation Access Plan and is subject to Site Plan Approval. Maximum thresholds are essentially the same as the existing Code for most commercial uses. These regulations ensure that proposed projects do not include an oversupply of parking and surface parking lots do not dominate the mixed-use districts.

Parking minimums and maximums are organized in the proposed Code by district and use rather than just by use, as done in the existing Code. This allows for more restrictions in the residential districts and fewer restrictions in non-residential districts. For instance, a restaurant being established in a nonconforming building in a residential district will be required to provide 2 spaces of on-site parking for each 1,000 square feet of gross floor area. The same use in a non-residential district would not be required to provide on-site parking.

In the proposed Code, required bicycle parking is no longer linked to the number of vehicle parking spaces as it is in the existing code; it is linked to the use. Multifamily development would be required to provide one space per unit, up to 30 spaces, and the bicycle parking requirement for commercial development is based on size (gross floor area).

## 6. Hours

Regulating hours of operation is a balance between the interests of economic vitality and quality of life for residents. Extended hours provide more opportunity for businesses to serve people which is positive for the business, community, and patrons. However, late night hours can mean noise and other disturbances that impact the neighborhood quality of life. In some cases, the City Noise Ordinance (Chapter 75 of the City Code), administered by the Rochester Police Department, can alleviate problems with noise. In addition, the City’s Nuisance Abatement Program (Section 10-12 of the City Charter) imposes “nuisance points” to a

business if problems, such as excessive noise and loitering, occur because of their operation. If problems persist and points are accumulated, a business can be shut down.

Several years ago, the New York State Court of Appeals held that municipalities may not regulate the hours of operation of businesses that are regulated by the NYS Liquor Authority (SLA). The hours imposed in a New York State liquor license preempt any Zoning regulations. The SLA, however, allows a local municipality the opportunity to influence the issuance of and conditions for a liquor license. The City recently instituted a plan to routinely review liquor license applications to better coordinate with the SLA. In addition, the City is able to continue to regulate hours of operation for accessory outdoor seating areas.

Many of the codes/programs discussed above are often more effective in responding to quality-of-life issues than Zoning regulations. Despite that, in response to community input, the proposed Zoning Code continues to regulate hours of operation as follows:

- In the Overlay Commercial District, hours of operation for nonresidential uses are 6:00am to 11:00 pm and loading and unloading are limited to 8:00am to 6:00pm.
- For all *Commercial Uses, Indoor* occupying a nonresidential building in a residential district, hours of operation are limited to 8:00am to 11:00pm, and loading and unloading is limited to the hours of 8:00am to 6:00pm.
- Cannabis Establishments are subject to the same hours restrictions as that of the existing Code - Monday through Saturday 8:00am to 9:00pm and Sunday 12:00pm to 9:00pm.
- Loading and unloading for all *Craft Production* uses in all districts are limited to 8:00am to 6:00pm.
- In the Collegetown Village and FMU Districts, drive-through restaurants are limited to 5:00am to 11:00pm.
- Loading and unloading for *Light Industrial* in a residential district are limited to 8:00am to 6:00pm. In the BMU and NMU Districts, loading and unloading are limited to 8:00am to 6:00pm. In the FMU and DMU Districts, loading and unloading are limited to 8:00am to 10:00pm.
- For *Heavy Industrial* uses, no vehicles or equipment shall operate engines or motors between the hours of 10:00pm and 8:00am. the following day unless parked more than 150 feet from any residential district lot line, as measured from the lot lines of the heavy industrial, excluding any right-of-way.
- For an *Outdoor Market* or a *Temporary Farmer's Market*, any accessory entertainment, live or pre-recorded, is limited to the hours of 11:00am to 7:00pm and up to twice per week.
- Hours of operation for *Museums* being established in the LDR and MDR districts shall be limited to 8:00am to 8:00pm, except for events not exceeding 30 people, and offered a maximum of five times per year. Loading and unloading in the LDR, MDR, and HDR Districts shall be limited to 8:00am and 6:00pm.
- *Outdoor seating/activity areas* in all districts are limited to the hours of 7:00am to 11:00pm. There are some slight differences for the Collegetown Village District to retain what is currently allowed.

## 7. Landscaping

The proposed landscaping section is essentially the same as the existing Code with little substantive change. The term "Buffer Yard" is introduced in this section. Buffer yard is defined as, "Land area with landscape plantings and other components used to separate one use from another and to shield or block noise, lights, or other nuisances." A buffer yard is required to mitigate impacts when potentially incompatible uses or districts share a lot line. The proposed Code lists the situation when a buffer yard is required:

- Where a multi-family dwelling abuts a single-family, two-family, or townhouse dwelling. The multi-family dwelling owner is responsible for the installation and maintenance of the buffer yard.
- Where a nonresidential use abuts a single-family, two-family, or townhouse dwelling. Nonresidential use does not include a park or community garden. The nonresidential use owner is responsible for the installation and maintenance of the buffer yard.
- Where a nonresidential district, excluding the OS District, abuts a residential or Village Center district. The nonresidential use owner is responsible for the installation and maintenance of the buffer yard.
- Where an IND District abuts a residential district, or a BMU, NMU, DMU or OS District, the owner of the property in the IND District is responsible for the installation and maintenance of the buffer yard.

## 8. Signs

The section of the Zoning Code related to sign regulation was entirely rewritten. It has long been recognized that the existing Code is too restrictive. In reviewing the commonly issued Area Variances related to signs, some of the issues that need correcting were revealed and some of the issues include:

- Corner properties often need two detached signs, where only one is currently allowed in a commercial district. These Variance requests are usually approved.
- The four-foot height limit is too short for detached signs, considering most have some sort of a base and landscaping around them. At this height, snow storage can be problematic as it often piles up in front of signs. The ZBA regularly approves a maximum of 6' in height, but nothing higher.



- The existing Code only allows one attached sign in nonresidential districts, which has been an issue when a storefront wants both an attached projecting sign and an attached wall sign to address visibility from both the street and the sidewalk. The ZBA regularly allows both signs.



- Development, redevelopment, or rebranding of fueling stations has been an issue with respect to signs. Business owners usually want ample signage and complain that the existing Code is too restrictive. The Zoning Board usually allows a compromise. The proposed code attempts to codify that compromise.



In addition, the existing Code's maximum overall sign area per site has fallen out of favor in new zoning codes as it does not offer a reasonable way to allow for signs that match the form, scale, and design of buildings and districts. Based on how signs are designed and installed, restricting maximum sign area does not always offer the right level of proportional control so the resulting signs can be either too small for the scale of the site or building, or in some cases too large.

The regulatory approach being proposed is a variation of the existing Code. It is a proportional approach that works with the form established within the districts and assigns specific standards for each sign type permitted within a district.

To further protect the aesthetics of the City, the proposed Code adds the requirement for a Unified Sign Plan (USP) for all new multi-tenant developments<sup>20</sup>. A USP will establish a coordinated and consistent approach to

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<sup>20</sup> The definition in the proposed code: *A nonresidential development or the nonresidential component of a mixed-use development designed for and occupied by three or more tenants.*

all signs within a development, establishing criteria to govern the design and construction of signs for current and future tenants. This approach will reduce the impacts of sign clutter associated with a multi-tenant development, each with different uncoordinated sign installations without coordination. It will also eliminate the need for variances for multiple signs, once a sign plan for the entire development is approved.

The proposed code does not eliminate the provisions for the Alternative Sign Program, named in the proposed Code as an Alternative Sign Plan. Approval of the Alternative Sign Plan, however, moves to the Manager of Zoning from the City Planning Commission. This move will expedite the review of a plan that includes imaginative, effective, and visually compatible signs on a property, with the intent of allowing creative responses to site-specific conditions or uses.

## 9. Nonconformities

Overall, the regulations pertaining to nonconformities have been simplified in the proposed Code. The first major change is including uses in the Use Table for existing nonresidential structures in residential districts. This gives those properties permitted and specially permitted uses without the burden associated with nonconforming structures.

Secondly, the proposed Code exempts legal two-family homes in the LDR from the abandonment provisions for nonconforming uses. In other words, if a legal two-family home is vacant for more than a year, it can still be reoccupied as a two-family dwelling. This is a departure from the existing Code where deconversion is required after 12 months of vacancy. The proposed Code is not trying to lengthen vacancies, but rather facilitate rehab and occupancy. Allowing a vacant two-family building to be reoccupied as a two-family dwelling in LDR can effectively accelerate rehabilitation and reoccupancy. Vacant buildings are not desirable, contributing to blight and general neighborhood decline. That is why the City initiated new regulations in Chapter 90 of the City Code that become effective in January 2024. Among other things, to facilitate monitoring and potential enforcement of vacant buildings, these new regulations require registration of and fees for vacant buildings.

To be clear, new construction of two-family dwellings is still not permitted in the LDR district.

Another major change proposed for the nonconformities section is the exemption of legal 2, 3, and 4-family homes from the damage and destruction provisions of the nonconformity regulations. This means that if those buildings exist anywhere in the city and they are damaged or destroyed, they can be rebuilt. This new provision particularly impacts the LDR district. The reason for this new provision is to remove the current barrier for an owner-occupant to purchase one of these existing homes. It has long been known to City staff anecdotally and recently confirmed with a local lending institution, that when a lender learns that the nonconformity provisions of the Zoning Code do not allow the reconstruction of a building if it is destroyed, it will deny financing. If financing is denied, the property is subject to only cash sales which can inhibit reinvestment and limit potential owner occupants from purchasing these properties. Additionally, this change will allow a property owner the ability to obtain a home-equity loan or line-of-credit to make property improvements so they can maintain/upgrade the property, thereby avoiding a potential blight on the neighborhood. There are 5,760 two, three, and four-family buildings within the proposed LDR District. Of that figure, 91% are two-family dwellings. Only 292 and 165 properties are 3-family and 4-family uses, respectively.

Any other nonconforming structure that is damaged or destroyed to the extent of more than 50% of the cost of replacement, cannot be restored unless it thereafter conforms to the regulations of the zoning district in which it is located. This new threshold is more restrictive than the existing Code.

Lastly, abandonment of a nonconforming use is changing from 9 months in the existing code to one year in the proposed Code. If a nonconforming use (except for legal two-families in the LDR, as discussed above) in a building built for a conforming use becomes vacant for more than one year, it must be converted to a conforming use. This is a nominal change in time, 3 months, and makes administration of the code easier. It also is clearer for property owners as to how much time they have to get a building occupied.

## 10. Sustainability

*“The City of Rochester and surrounding areas are already experiencing changing climate conditions, particularly related to increased temperatures and changing precipitation patterns. Projections indicate that these trends will continue. These changing conditions present significant risks to the natural environment, economy, energy and agricultural systems, and public health and safety. They are also an opportunity to envision a more resilient Rochester.”* - City of Rochester Climate Vulnerability Assessment 2018

To reduce greenhouse gasses, the main contributor to climate change, the City’s 2017 Climate Action Plan recommended actions within broad categories, including sustainable development, alternative transportation, stormwater management, reuse of vacant and underutilized properties, open space networks, and renewable energy. Sections below describe how the Code and Map respond to each of these categories.

### a) Sustainable Development

- The Manager of Environmental Quality is proposed to be added to the required membership of the Project Review Committee, which reviews major (Level B) site plans, so that sustainability is emphasized as a development consideration.
- The proposed Zoning map puts more acreage into mixed-use categories (i.e., Boutique Mixed Use, Neighborhood Mixed Use, Flexible Mixed Use, and Downtown Mixed Use), legalizing and allowing mixed-use development throughout the city. Mixing uses, which is defined as including residential units alongside commercial uses, is part of a strategy for sustainable development because, among other things, it reduces the need for car ownership, reduces vehicle travel miles, and supports alternative forms of transportation like walking and transit.
- Existing built-as commercial and mixed-use buildings will be allowed as-of-right uses, subject to specified parameters, in residential zoning districts. This is another strategy for supporting mixed uses, preserving existing buildings and their embedded energy, and conserving the energy required for demolition and reconstruction.
- The MDR District covers more than double the acreage of R-2 and allows up to four dwelling units as-of-right. R-2 only allows up to two units as of right. Increasing residential density not only provides more housing options to a community, but it also concentrates people near existing infrastructure, transit stops, commerce, and community services, which are sustainability strategies.
- Residential density is advanced with the proposed elimination of minimum lot size regulations. Infill housing creates opportunities for more housing in existing neighborhoods.
- The proposed Pocket Neighborhood is a strategy for allowing compact communal living.
- New code language encourages the placement of plant material to help insulate and shade development to reduce the energy consumption needs.

b) [Alternative Transportation](#)

- The proposed Zoning map puts more acreage into mixed-use and higher density residential zoning, reducing the need for car ownership or total car dependency and supporting alternative forms of transportation like transit, walking, and biking. Most RTS transit corridors were targeted for upzoning.<sup>21</sup>
- Design standards will continue to require transparency, entrances, and continuous streetscapes to support walkable mixed-use corridors.
- The proposed parking regulations include requirements and standards for EV charging stations.
- The proposed Code uncouples bike parking requirements from vehicle parking requirements and increases the required bicycle parking.
- Eliminating minimum parking requirements and instituting the requirements for Transportation Access Plans shifts the emphasis from automobile use to other forms of transportation.
- The proposed Code requires new construction of a building and expansion of an existing building by 2,500 square feet or more to provide bicycle parking.

c) [Stormwater Management](#)

- Lot coverage requirements have been criticized for being contrary to increased density and therefore not sustainable. However, one of the biggest climate change vulnerabilities of Rochester is stormwater management from increased precipitation and flooding. Maintaining greenspace is a strategy for stormwater management so, in balancing interests, lot coverage is retained. Although, residential maximum lot coverage is increased from 50% to 60% in the proposed Code because a review of existing lot coverage in the city revealed that 60% is more in keeping with the typical residential development of the City's built environment. However, it is proposed to remove the current exemption for accessory structures under 144SF from the calculation for maximum lot coverage.
- Stormwater management strategies for surface parking lots are addressed in the proposed Code. Pervious pavement is specifically identified as an acceptable parking lot surface. The use of stormwater management elements, such as sunken islands, perforated curbs, rain gardens and bioswales, is encouraged in required landscape areas. When a parking lot island is designed for stormwater management, the tree requirement may be exempted.
- To incentivize permeable pavement, the definition of lot coverage states: "When pervious paving or similar pervious surfaces are used, the area of such pervious surface is calculated at a reduced percentage of 50% for the purpose of impervious surface calculations (e.g., a 200 square foot patio constructed of permeable pavers would be counted as 100 square feet of the total impervious surface). No barrier to infiltration shall be installed beneath the material and the installation complies with the NYS Stormwater Management Design Manual and manufacturer's instructions."

d) [Reuse of Vacant and Underutilized Properties](#)

- The new FMU district is meant to reflect the growing popularity of loft residences, unique businesses, artisanal crafts and production, and creative adaptive re-use of legacy industrial buildings of the late 19th and early 20th century.
- Proposed changes in regulations related to nonconformities will allow easier financing of existing nonconforming buildings so that abandonment of these buildings is less likely.

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<sup>21</sup> Upzoning is a term used for rezoning an area to allow a higher density of uses and/or more permitted uses.

- Existing built-as commercial and mixed-use buildings will be allowed as-of-right uses, subject to specified requirements, in residential zoning districts.

e) **Open Space Networks**

- The Use Matrix introduces two new uses to the Zoning Code: Urban Farm and Community Garden. These new uses are intended to encourage two types of agricultural, primarily in residential districts. The recognized benefits of the uses to residents and neighborhoods include the re-use of vacant land, the production of fresh produce, the provision of a source of revenue, and community gathering. The difference between these two uses is essentially related to the scale of operation.
- The City parks system is included in the OS District which is a critical component of the Open Space Network. The proposed Map attempts to provide an accurate representation of the location of public parks in the City and zone them accordingly.

f) **Renewable Energy**

- The proposed Code recognizes Solar Energy Systems and Wind Energy Conversion Systems as principal structures/uses and allows them either as-of-right or by Special Permit in all districts. In addition to stand-alone solar/wind fields, the proposed Code envisions installations on rooftops or over surface parking lots. These would usually be principle uses because they could be installed and managed by entities separate from the property owner or tenant. In the existing Code, as a principal use, only solar is allowable and only in the M-1 District and a couple of the Planned Development Districts adding up to under 20% of the City. Wind facilities are allowable over even less of the City. The proposed Code allows solar and wind systems, as principal uses, across more than 90% of the City. Standards are included in the proposed Code that provide mitigation for potential impacts from solar and wind installations. Standards include setbacks, landscaping, glare reduction, safety planning, etc.
- A new provision in the proposed Code is the required installation of Electric Vehicle Charging Spaces in parking facilities. Surface and/or structured parking facilities, both accessory to a principal use and as a principal use, are required to have EV charging stations as follows:
  - For parking facilities under 20 spaces, one EV charging station is required.
  - For parking facilities of more than 20 spaces and up to 39 spaces, two EV charging stations are required.
  - For parking facilities of 40 or more spaces, a minimum of 5% of the required spaces must be EV charging stations, with any fraction rounded down.

## 11. **Historic Resources**

The protection of historic resources is an important component of the existing Zoning Code and the proposed Code. There are various lists of historic resources for Rochester that guide the application of the Zoning Code. There are local Preservation Districts, Local Landmarks, local Designated Buildings of Historic Value, and properties and districts listed on the State/National Register of Historic Places (S/NRHP). These lists will not change with the implementation of the proposed Code.

The Rochester Preservation Board (RPB) has jurisdiction, through the Certificate of Appropriateness, over properties within a local Preservation District or designated as a Local Landmark. A minor change is proposed that would change the composition of the RPB. In the existing Code, the RPB must have two architects. The proposed Code changes that to one architect and one landscape architect, since the RPB regulates landscaping in Preservation Districts and on Local Landmark sites.

Designated Buildings of Historic Value (DBHV) are buildings in the City that have been identified as having historical and/or architectural importance and that should not be demolished or significantly altered without review and approval. The list of DBHVs includes the addresses of buildings listed on the National and State Register of Historic Places, supplemented with the buildings listed on the Mack Survey from the 1980's and subsequently updated in the year 2000. This list is filed in the City Clerk's Office. The proposed Code carries over the regulations from the existing Code pertaining to these buildings, however, it moves the review authority over DBHV from the Zoning Board of Appeals to the RPB. The RPB has more expertise than the Zoning Board in reviewing issues of historic architecture and landscaping, so this change should have positive impacts on the review process and on neighborhoods.

The existing Code introduced the "adaptive use of designated landmarks" which was noteworthy at the time it was adopted. This provision offered designated landmarks in residential districts the option of converting to offices. The proposed Code takes this a step further by allowing many additional uses either permitted or specially permitted (see the Use Table for "Special Considerations") and expands the scope of buildings that can benefit. The proposed Code includes Local Landmarks and buildings individually listed on the NRHP located in residential zoning districts. This will provide more opportunities for these special buildings to be financed, maintained, and occupied. These properties are subject to all the regulations of the proposed Code to avoid negative impacts to adjacent properties.

## 12. Authorities/Procedures

### a) Prohibited Variances

Section 120-195.B.(5) of the existing Code includes a list of "*Prohibited Variance(s)*". Uses listed in this section were determined to be likely to have "such an adverse impact on adjoining properties and neighborhoods as to jeopardize the purpose and goals of the zoning district" and the existing Code denies applicants the right to apply for a Use Variance for these uses. To address the concern that this section fails to provide the administrative relief generally established under New York State zoning laws, the proposed Code deletes this section and restores the right to apply for a Use Variance.

Under the existing Code, Use Variance applications are prohibited for the following uses:

- A use or development in a residential district which is not permitted as of right by the use regulations applicable in such district or in any other residential district established by this chapter.
- Increasing the number of residential units within a building in the LDR District.
- An advertising sign in any district except where specifically permitted.
- Establishment of a sexually oriented business that is not permitted in that district.
- Personal wireless telecommunication facilities (PWTF) on landmarks or a telecommunication tower in a preservation district.
- Establishment of an outdoor shooting range in any district.

Under the proposed Code, applicants may make Use Variance applications for these uses and will be required to meet all the standards for the variance, including proving economic hardship for the parcel. This change could leave neighborhoods more vulnerable to uses that are inconsistent with the existing character. However, City staff and the ZBA will be aware of this Code change and vigilant about its potential impact. Strict application of the rigorous standards for Use Variances will protect against such adverse impacts. In addition, the proposed Code adds most of the above list to the list of uses requiring Site Plan Review. Site

Plan Review adds an additional level of review and supplements the application materials going to the Zoning Board to assist in their review.

b) [Two-step process for Use Variance](#)

A long-time practice of the City Zoning Office and the ZBA is codified in the proposed Code. This is the process of separating the review of the standards for the approval of Use Variance into two steps. The standards for a Use Variance include:

- **No reasonable return-** The subject lot or parcel is not capable of yielding a reasonable return if used for its present use or developed, redeveloped or used for any other use permitted by this chapter in the district in which such lot or parcel is located.
- **Unique circumstances-** The inability to yield a reasonable return results from unique circumstances peculiar to the subject lot or parcel which do not apply to or affect other lots or parcels in the immediate vicinity that are subject to the same regulations, which amount to more than a mere inconvenience to the owner and which relate to or arise out of the lot or parcel rather than the personal situation of the current owner of the lot or parcel.
- **Not self-created-** The aforesaid inability to yield a reasonable return is not the result of any action or inaction by the owner or their predecessors.
- **Essential character of the area, surrounding uses and facilities-** The variance would not result in a use or development which would materially impact the enjoyment, use or development of adjacent properties or the neighborhood because of issues of noise, traffic or parking congestion or undue demands on public utilities or services.

The first three of the above-listed standards relate to a property owner proving that the Zoning Code is causing the property owner financial hardship that is not caused by any action of the owner. A financial hardship is the condition or status of the property as it exists regardless of any proposed project. Proving this financial hardship is step one of the two-step process for a Use Variance. If the financial hardship is proven, the Zoning Board makes a finding that the standards have been met and notifies the applicant so they can now advance the Use Variance application for their specific proposal.

The fourth standard listed above, related to the character of the neighborhood, is the only standard that relates to a proposed project. In step two of the application, the applicant proposes a use and a building design for the property that will relieve the demonstrated financial hardship and not cause adverse impacts on the neighborhood and adjacent uses.

This two-step process allows the applicant to establish that the property is causing a financial hardship for its current and any permitted use, prior to investing in the design of a proposed project and new use. This helps avoid unnecessary expenditures for design when there cannot be a demonstrated hardship. And, once the financial hardship is proven, if the variance is denied, based on the second step, future proposals can continue to rely on the approval of step one. This will save time and money for the applicant and reduce administrative time for City staff without compromising the integrity of the variance process.

c) Revised site plan review (SPR) triggers

(1) Design waivers

The proposed Code changes the application for a waiver of design standards from an Area Variance with Minor SPR to a Level B (Major) site plan review, only. Level B SPR requires a recommendation from the Project Review Committee to the Manager of Zoning. This change eliminates a public hearing required by the Variance process and, instead, requires notification to neighbors within 100 feet of the property and to the Official Neighborhood Contact. The Project Review Committee is subject to NYS Open Meetings Law so members of the public can attend the meeting to hear the deliberations, although they may not participate. Members of the community can also submit written comments to the Manager of Zoning which are considered during the decision-making process.

(2) Alternative Sign Program

Approval of an Alternative Sign Program moves to the Manager of Zoning (SPR-Level A) from the City Planning Commission (CPC). This change is intended to encourage and expedite a creative approach to sign installations on a unique property. See section IV.C.8. above.

(3) Use Variance triggers

As discussed above, to help mitigate the proposed loss of the Prohibited Variance section, when a Use Variance application involves a use that was formerly a prohibited variance, the proposal will also require Site Plan Review. Site Plan Review research and findings will provide additional information to help the ZBA with the decision-making process for the Use Variance application.

d) Fees

Application fees remain the same except for Use Variance applications. The Use Variance fee is \$250 and it is proposed to be increased to \$500. However, the two-step process discussed above allows applicants to pay in increments for a Use Variance. If the application is denied in step one, the applicant is not required to pay \$250 for step two. According to NYS Law<sup>22</sup>:

*The appealing party bears the cost of sending or publishing any notices relating to the appeal. The courts have held that the legislative body of a municipality has implied authority to enact local legislation to impose fees to pay for other zoning and planning expenses, but the fees must be exacted in accordance with a schedule of charges based on the average costs incurred for reasonable and necessary expenses by the municipality for the particular type of appeal involved.*

Application fees incorporate the cost of public notification of applications to the City for approvals related to a project or change in use.

e) Board Changes

No changes are being made to the land use boards except for the Project Review Committee (PRC). Those proposed changes to the PRC include:

- The Zoning Manager is being removed as a voting member since the PRC is advisory to the Manager of Zoning.

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<sup>22</sup> NY CLS Gen City § 81-a

- The Manager of Environmental Quality is proposed to be added so that sustainability is emphasized as a development consideration.
- Titles were updated to make them consistent with titles listed in the City budget documents.

### 13. Code Issues of Particular Community Interest

#### a) Low-Density Residential

Home ownership is very important to the Rochester Community. It is recognized that single-family homes and low-density residential neighborhoods are a valued and common neighborhood type across the city. While the land area in the City designated as a Low-density residential district is proposed to decrease, 32% of the City overall and two-thirds (2/3) of the land area of our residential districts remains in Low-density residential on the proposed Zoning Map. That is larger than the area planned for any other type of district. The Low-density district is spread city-wide, in every quadrant, and is not just located in the strong market neighborhoods. This provides for a range of prices for single-family homes for affordability across a range of incomes.

Conversion to and construction of 2 or more-unit homes will not be permitted in the new LDR District. However, pre-existing legal 2, 3, or 4-unit homes will be able to be rebuilt if they are damaged or destroyed, such as by a fire. This is critical for potential homeowners because this will facilitate mortgages if a potential owner occupant wants to buy one of these properties. Under the current Code, the inability to rebuild limited the financing options, which left out many potential owner-occupants and made rehabilitation difficult.

Additionally, while the proposed Code does not allow the construction of new two-family dwellings in LDR, it proposes exempting existing legal two-family homes in the LDR from the abandonment provisions for nonconforming uses. In other words, if a legal two-family home is vacant for more than a year, it can still be reoccupied as a two-family dwelling. This is a departure from the existing Code where deconversion back to a single-family dwelling is required. Requiring deconversion can be costly, causing owners and potential owners to walk away and abandon the vacant building. The proposed Code is trying to reduce and eliminate vacancies and facilitate rehab and occupancy. Allowing a vacant two-family building to be reoccupied as a two-family dwelling in LDR can effectively accelerate rehabilitation and reoccupancy. This also may make it easier for a potential homeowner to live in one unit and rent the second unit to facilitate affordability.

#### b) Transient/Visitor Accommodations

##### (1) Bed and Breakfast

In the proposed Code, a bed and breakfast is defined as follows: *“Bed and Breakfast Dwelling: An owner-occupied and owner-operated dwelling unit, originally designed as a residential structure, used for providing overnight accommodations and a morning meal to not more than ten transient lodgers, and containing not more than five bedrooms for such lodgers. Only bedrooms are used for providing overnight accommodation for less than 31 consecutive days at a time. The dwelling unit is the owner's primary residence and at least one bedroom within the unit is reserved for the owner's exclusive personal use.”*

This definition is more specific than the existing Code, although neither the definition nor the more detailed and clear standards below significantly change the use. The definition is aligned with the NYS Building Code. Bed and breakfast dwellings are allowed in all zoning districts. The proposed Code provides standards for this use, as follows:

- No alteration to either the exterior or the interior of any principal or accessory structure shall be made which changes the character and appearance of the residential premises.

- Only rooms originally designed as bedrooms shall be used for guest lodging.
- Cooking equipment is prohibited in individual guestrooms, with the exception of minor appliances such as mini-refrigerators, coffee makers, and/or microwaves.
- No bed and breakfast establishment may operate an eating and drinking establishment. Meals may only be served to registered guests.

#### (2) Hotel

In the proposed Code, hotels are defined as follows: *“A facility that provides sleeping accommodations and customary lodging services to guests for a fee. Related accessory uses may include, but are not limited to, meeting facilities, restaurants, bars, fitness rooms, and recreational facilities for the use of guests. Hotels shall have a 24-hour on-site manager.”* Hotels are not allowed in LDR, MDR, or HDR unless they are within a pre-existing commercial building and only with a Special Permit from the City Planning Commission. Hotels are allowed by Special Permit in BMU, NMU, and FMU and are permitted as of right in DMU, RC, and Village Center Districts. Hotels will be subject to the following standards:

- Overnight occupancy of recreational vehicles, camper trailers, and tents at the property where the hotel is located is not allowed.
- Outdoor overnight sleeping of guests is prohibited

#### (3) Motor Lodge

In the proposed Code, motor lodges are defined as follows: *“A building or group of buildings that provides sleeping accommodations and customary lodging services for a fee for primarily automobile transients and which has individual entrances from the outside of the building for a minimum of 25% of the rooms located therein. Motor lodges shall have a 24-hour on-site manager.”* Motor lodges are best suited along major transportation corridors because they serve travelers, so the proposed Code allows them in RC and HV districts. Like hotels, the proposed standards for motor lodges include:

- Overnight occupancy of recreational vehicles, camper trailers, and tents at the property where the hotel is located is not allowed.
- Outdoor overnight sleeping of guests is prohibited

#### (4) Short-Term Rentals

“Short-Term Rental (STR)” is a use that has emerged since the existing Code was adopted in 2003. The existing Code does not have a definition or regulations for STRs and STRs are not considered to be in compliance with the Code definition of “family” in the definition of dwelling units. Section 90-16 of the City Code, however, requires a Certificate of Occupancy (CofO) for all rental housing to ensure the property is safe for residents of that property.

The proposed Code introduces regulations for STRs by creating a definition and developing use standards to address potential impacts of the use on adjacent properties. The proposed definition is: *“the rental of a whole dwelling unit to guests for periods of less than 31 consecutive days, where the property owner or leaseholder does not reside within the dwelling unit. Any multi-family dwelling, or mixed-use development containing 20 or more dwelling units, where 50% or more of the dwelling units are short-term rentals is considered a hotel.”* Based on public comment received to date, the pros and cons of this use were weighed in developing the zoning regulations. For example, concerns that this use brings strangers into neighborhoods who bring uncertainty, noise, and potential crime were weighed against the benefits visitors, with their spending potential, would have on the local economy. In addition, while an STR may be a potential wealth-

building opportunity, there is an offsetting loss of housing availability because the home is no longer available for owner or renter occupancy by city residents. There is a growing inventory of STRs in the city and balancing the needs of visitors, economic development, and neighborhood residents is challenging.

To balance interests and address concerns, the proposed Code does not allow STRs in LDR and MDR and permits them in most of the other districts. They are also prohibited from non-residential buildings in residential districts. This is intended to be a balanced approach that can be revisited and the Code amended if it is determined that additional regulations and/or approval processes should be adopted through other sections of the City Code outside of Zoning. Other regulatory approaches that may be considered include licensing, a registration process, and/or a business permit, all of which usually work in conjunction with zoning. This holistic approach to regulating STRs is an alternative to strictly limiting where they can be established through the Zoning Code and would require a collaborative effort involving many departments in City government, beyond the Zoning Office. In the meantime, the proposed Code allows STRs in HDR, BMU, NMU, FMU, DMU, RC, PMV, CV, and MD and with a Special Permit in HV.

In addition to addressing permitted locations, the following standards are included in the proposed Code to mitigate potential issues:

- No alteration to either the exterior or the interior of the structure shall be made which changes the character and appearance of the residential premises.
- Only rooms originally designed as bedrooms can be used for sleeping.
- Signs are prohibited.
- The STR shall require a local manager/operator, available 24 hours per day. Local is defined as an office or residence located within 30 miles of the subject property.
- Overnight occupancy of recreational vehicles, camper trailers, and tents at the property where the short-term rental is located is not allowed. Outdoor overnight sleeping of guests is prohibited.

#### c) Boarding Houses

This term replaces the term “Rooming House” in the existing Code. It was changed to align with the NYS Building Code. It also clarifies that Fraternity and Sorority Houses will be classified as boarding houses. The proposed definition is *“a dwelling that offers lodging for 31 consecutive days or more within sleeping units for compensation, with or without meals, and not occupied as a single-family dwelling. Individual sleeping units are let by the owner or operator to non-family members. This includes dormitories, fraternity and sorority houses. Boarding house does not include owner-occupied premises with sleeping units rented to two or fewer non-family members.”* This use, usually in the form of student housing, has caused concerns for many city neighborhoods. To mitigate those concerns, boarding houses are only allowed in LDR, MDR, PMV and HV if the dwelling is owner-occupied and if a Special Permit is granted by the City Planning Commission. For the remainder of the zoning districts, it is allowed only with a Special Permit. In addition, the following proposed standards apply to boarding houses:

- For five or fewer sleeping units, if not owner-occupied, a property manager must be available 24 hours and the name and phone number must be posted inside the building.
- For six or more sleeping units, there shall be a 24-hour property manager who resides within the dwelling unit; this includes dormitories.
- No alteration to either the exterior or the interior of any principal or accessory structure shall be made which changes the character and appearance of the premises.
- Only habitable rooms originally designed as bedrooms shall be used for lodging.

- Boarding houses are subject to the dimensional and design standards for a multi-family dwelling within the district.
- Individual sleeping units are limited to no more than two people per unit.

It's important to emphasize that the definition includes, "boarding house does not include owner-occupied premises with sleeping units rented to two or fewer non-family members." This means that homeowners can rent out two bedrooms within their home without any regulation in any zoning district.

#### d) Accessory Dwelling Units (ADUs)

The establishment of ADUs is an issue that was raised by the community during the preparation of *Rochester 2034* and again with the proposed Zoning Code. There is both interest and concern regarding the establishment of ADUs, which creates a challenge for policymaking and code preparation. As a result of the significant interest in this topic, a definition for ADU is added, along with proposed regulations that seek to find a balanced approach to regulating ADU's in the Zoning Code. The proposed definition is:

An Accessory Dwelling Unit (ADU) is a subordinate dwelling unit added to, created within, or detached from a principal single-family detached dwelling and located on the same lot or parcel as the principal dwelling. The ADU provides living, sleeping, cooking, and sanitation facilities. ADUs are not recreational vehicles, travel trailers, campers, or any other type of motor vehicle.

ADU's are included as an accessory use in the Use Table in the proposed Code. They are listed as permitted in every district, except LDR. Proposed use standards generally include:

- Only one ADU is allowed per property.
- An ADU can be attached or detached in the rear yard.
- All ADUs shall have a separate exterior entrance from the principal dwelling unit.
- An ADU shall not have more than one bedroom.
- Separate water or sewer service for the ADU shall not be provided by the City.
- Ownership of the ADU shall not be legally severed from ownership of the associated lot and any other structures on such lot.
- The owner of the property on which the ADU is located shall be required to reside in either the primary dwelling unit or in the ADU.
- The ADU shall be limited to a maximum of 400 s.f., and shall not exceed 24' high and cannot exceed the height of the principal structure.

In the existing Code and the proposed Code, all Zoning Districts, including LDR, allow a second kitchen in a home if it meets NYS Building Code requirements and is not included in an area that is separated by locked interior doors. In addition, both Codes allow a 2<sup>nd</sup> detached single-family dwelling on a lot if all design and dimensional standards for the LDR District are met.

#### e) Drive-throughs and Drive-up Windows

The existing Code treats drive-through facilities as a distinct principal use despite their role in the operation of a business. The existing Code is restrictive for all drive-throughs with only first allowing them in C-2 by Special Permit. The proposed Code, however, recognizes the difference between a drive-through that is a principal use and one that is accessory to the principal use. In the case of "fast-food" restaurants, project sponsors often contend that the restaurant cannot be established without a drive through – that it is

essential to the operation. Therefore, the proposed Code lists drive-through restaurants as a principal use. This term includes restaurants that, by design of physical facilities, provide food/beverages to customers who remain in a motor vehicle. Drive-through restaurants require a unique site development, including traffic lanes for queuing and pedestrian traffic protections, that requires regulations that are different from other commercial uses.

Currently there are over 30 drive-through restaurants within the City and many more just outside the city boundary. In fact, according to the U.S. Department of Agriculture, Monroe County has a high number (.76-1 for every 1,000 people) of fast-food restaurants per capita relative to municipalities across the nation.<sup>23</sup> Because this use is already present in the City and they require substantial land area, which interrupts the pedestrian orientation and the character of a commercial area, the proposed Code is relatively restrictive of this use. They are only allowed by right in the RC District, and specially permitted in the FMU and C-V Districts. Existing drive-through restaurants, however, will retain their nonconforming status and can be occupied and reoccupied without issue. Where they are not permitted, the property owner will have to prove, through a Use Variance application, that the property cannot achieve a reasonable rate of return for any other allowable use in that district. The Special Permit and Use Variance processes will help mitigate any potential negative impacts of the establishment of a drive-through restaurant.

For other types of uses like banks or pharmacies, where there are fewer traffic and noise impacts, and the use is a convenience to customers but not critical to the character of the business, the aspect of the business that serves people from their vehicle is treated as an accessory use. Accessory uses are not regulated the same way as a drive-through restaurant. These accessory “Drive-up Windows” are allowed by right in the NMU, FMU, RC, and C-V Districts. To be clear, some restaurants may be able to take advantage of a drive-up window when the service is not an essential component to the business and food is only being picked up and not ordered on site. This would be an appropriate application of a drive-up window.

To review all impacts and benefits of a proposed drive-through, the proposed Code requires applications for Drive-through Restaurants, Drive-through Kiosks, and accessory Drive-up Windows to a Level B site plan review.

#### f) Enforcement

Stakeholder meetings for development of the Zoning Code and Map revealed the need for improved enforcement of the Zoning Code. The community and the City Planning Commission, the ZAP Steering Committee, stated clearly that enforcement is a serious issue, especially for ensuring that conditions imposed by our land use boards in their decisions are implemented. Rochester has one of the most proactive and comprehensive code enforcement programs in the country. There are between 8,000 and 10,000 individual properties being addressed through the City’s code enforcement programs at any given time. To at least partially address the community's concern about enforcement, four new Code Enforcement Officer positions were added to the 2022-23 City Budget and the City Law Department has added staff and has made code enforcement a high priority.

A new provision in the proposed Code allows any of the City’s review authorities, including the Zoning Board of Appeals, the Planning Commission, the Preservation Board or the Manager of Zoning, to require a letter of credit, or similar security, and a contractual agreement to guarantee the implementation of required conditions and/or site improvements. In the existing Code, this authority was limited to site plan review and

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<sup>23</sup> Economic Research Service, U.S. Department of Agriculture. [USDA ERS - Chart Detail](#)

was underutilized. The proposed Code has brought this tool to light and offers an opportunity for a renewed commitment to using that authority to ensure adherence to conditions of approvals. The provision permits the City to draw on the security and enter the subject property to install such improvements if the applicant fails to do so within the period of time specified in the agreement.

The proposed Code attempts to avoid duplication with the city codes already focused on nuisance abatement. Many “quality of life” issues (e.g., loitering, noise, disorderly conduct) that are very important to residents of the city are better and more efficiently handled through enforcement by the Rochester Police Department and the City Law Department, than through code inspectors for zoning.

## V. IMPLEMENTATION OF *ROCHESTER 2034*

This section explains how the proposed Zoning Code and Map meet the overarching Placemaking Principles and individual goals expressed in *Rochester 2034*, while also addressing the needs outlined in Section III above. Fundamentally, the proposed Map and Code to address the first goal in the *Rochester 2034* Section on *Implementation and Stewardship: IMP-1. Implement Rochester 2034 through City Code and procedures*. In addition, the following sections identify and discuss the other relevant goals of *Rochester 2034* and the corresponding Placemaking Principles.

### A. *Rochester 2034* Placemaking Principles

#### 1. Design at the Pedestrian Scale

*Prioritize development and design that is pedestrian-scaled and generates street-level activity to promote walkability and healthy lifestyles, and to create an attractive and welcoming built environment.*

#### 2. Create Beautiful Spaces

*Design our streetscapes and public spaces to be vibrant, playful, and environmentally sustainable, to reflect, cultivate, and celebrate the unique identities of our city and neighborhoods.*

#### 3. Provide Diverse Housing Options

*Work to preserve our existing housing stock while also providing more diverse, accessible options within all neighborhoods that expand our range of housing types, densities, and prices.*

#### 4. Celebrate Assets

*Capitalize on our existing unique assets, including natural and scenic amenities, cultural heritage, and distinctive historic structures and landscapes, recognizing that these assets enhance neighborhood pride, foster a strong cultural identity, and attract visitors, new residents, and investment.*

#### 5. Strengthen Multi-Modal Travel

*Strengthen multiple modes of transportation and promote more sustainable transit options by improving walkability and accessibility and increasing bus and bicycle access throughout the city.*

#### 6. Focus Growth

*Focus population growth and commercial development along key transportation corridors and within mixed-use centers in order to capitalize on existing infrastructure and a critical mass of activity.*

## B. Relevant Goals and Placemaking Principles (PP)

### 1. Placemaking Plan Goal #1 (PP#5, PP#6)

*PMP-1. Create a comprehensive placemaking approach that goes beyond traditional land use planning, with a particular emphasis on aligning land use and transportation planning efforts.*

The proposed Zoning Map includes the rezoning of several corridors of the city, as discussed in Section IV.B.3. Rochester has a bus-based transit system, managed by Regional Transit Service (RTS), which represents one of the primary opportunities to align land use and transportation planning efforts. *Reimagine RTS*<sup>24</sup>, which launched in May 2021, is a redesign of the area's public transit system to work with new mobility options. It aims to build ridership in the RTS system. Ridership generally increases with increased frequency of service, so ridership is expected to grow on the transit corridors resulting from implementation of *Reimagine RTS*. This was factored into the proposed zoning map to allow for increased density along bus routes to respond to the growth in ridership and to support ridership by creating more opportunity for people to live on a bus route and/or access goods and service that are located on a bus route.

A new feature of the draft Zoning Map is the introduction of designated street types in accordance with the City of Rochester Comprehensive Access and Mobility Plan (CAMP) which was coordinated with *Reimagine RTS*. Street types were also used in determining the appropriate zoning district, and, in some districts, the street type dictates the building design requirements. See Section IV.A.3 for a description of the integration of the CAMP into the proposed Map.

The impact of aligning those transportation efforts with the proposed Code and Map can be seen when looking at proposed zoning district changes. For instance, compared to the existing Zoning Map, the proposed map has more area committed to mixed-use districts. The existing map has 2,131 acres zoned C-1, C-2, C-3, and CCD districts, while the proposed Map has 2,814 acres dedicated to BMU, NMU, FMU, and DMU districts, an increase of nearly 700 acres (about the area of Central Park in New York City). This increase is due primarily to the conversion of residential districts along certain street corridors, especially corridors with bus routes, to mixed use districts. This allows for increased residential density and commercial uses along transit corridors. The proposed Map moves away from a rigid separation of uses, increasing areas where housing and commercial activity can mix, as well as increasing mixed-use areas that are within walking and biking distance of residential areas. In the northeast area of the City, where most of the 2003 downzoning of commercial corridors to R-1 occurred, Table 10 below shows the extent of the upzoning on the proposed Map.

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<sup>24</sup> [Reimagine RTS – Let's reimagine transit — together \(myrts.com\)](https://myrts.com)

Table 10 Upzoning of commercial corridors in the northeast quadrant

Corridor	R-1 Frontage in linear feet (LF)	R-1 Frontage proposed to be Mixed-Use (LF)	R-1 Frontage proposed to be MDR/HDR (LF)	R-1 Frontage proposed to be IND (LF)	Total R-1 Frontage proposed to be upzoned and Percent of R-1 frontage upzoned
N Clinton Ave	7,875	1,926	849	417	3,192 (40%)
Genesee St	6,800	843	5,006	0	5,849 (86%)
Hudson Ave	7,916	3,482	1,267	45	4,794 (61%)
Portland Ave	8,544	3,171	5,373	0	8,544 (100%)
Joseph Ave/Seneca Ave	9,032	0	3,672	0	3,672 (41%)
<b>Total</b>	<b>40,167</b>	<b>9,422</b>	<b>16,167</b>	<b>462</b>	<b>26,051 (65%)</b>

## 2. Placemaking Plan Goal #3 (PP#4)

*PMP-3. Employ a “zoning for jobs” approach whereby greater flexibility and efficiency of land use regulations fosters emerging business trends and creative re-use of buildings while not compromising the historic character and stability of neighborhoods.*

The proposed Code recognizes that the pipeline for business development starts with small-scale operations, such as mobile vending (e.g., food trucks, hot dog vendors, etc.) and home-based businesses (i.e., Home Occupations, Live-Work Unit). "Home Occupations" is listed in the Use Table and are permitted in nearly every zoning district. Small-scale business opportunities provide business incubators and test marketing at low costs, as well as wealth-building opportunities.

The option of starting a business from a home allows an entrepreneur a low-cost opportunity to build a business to a point where it is successful enough to move to a commercial space. The standards for a home occupation change in the proposed Code to allow one employee who is not a member of the family residing in the home. The existing Code is more restrictive in that it only allows one clerical part-time employee.

The areas in the City where light-industrial<sup>25</sup> uses are permitted is expanded on the proposed Zoning Map. In the existing Code, light industrial is permitted in the C-3, CCD, M-1 zones, and in some VC Districts. In the proposed Code, light industrial is allowed by Special Permit in an existing building in BMU and NMU, permitted in an existing building in FMU, and permitted as of right in DMU, RC, IND, and some VC Districts. The intent is to allow more opportunity for job-producing low-impact uses easily accessible to nearby

<sup>25</sup> The assembly, manufacture, fabrication, processing, agriculture, aquaculture, or other handling of products, the operation of which is conducted solely within a building or group of buildings and does not create a nuisance from noise, vibration, odor, dust, smoke, observable gas or fumes, or other observable atmospheric pollutants beyond the exterior walls of the building where the use is conducted. This includes warehousing and wholesale distribution of products manufactured on-site and products manufactured-off site. Light industrial may also include a showroom and accessory sales of products related to the items manufactured or stored on-site.

residents. Light industrial, as defined, does not include outdoor operations or storage and would not cause a nuisance to nearby residents. The creation of the FMU District similarly allows for the creation of more job opportunities by allowing a greater flexibility and diversity of uses in areas that were historically focused on manufacturing and large-scale commercial operations.

### 3. Placemaking Plan Goal #4 (PP#4, PP#6)

*PMP-4. Protect the existing character of neighborhoods while allowing room for evolution into more vibrantly urban, inclusive, and resilient design and character.*

Traditionally, Rochester's small scale, walkable neighborhoods were developed with a mix of uses, including commercial and mixed-use buildings. The 2003 downzoning led to many of these neighborhood commercial buildings becoming nonconforming, with the resulting disinvestment and blight. With standards in place to avoid negative impacts, the proposed Code allows occupation of pre-existing nonconforming commercial, mixed-use, or industrial buildings with and without special process approvals. Allowing these nonconforming buildings to once again include nonresidential uses in residential districts and small commercial areas, will reduce abandonment of and disinvestment in existing buildings and support the restoration of the City's traditional built environment.

Balancing growth and development while protecting the desired existing neighborhood character is a challenge that was at the center of the proposed Map and Code changes. Many of the proposed changes seek to ensure that all neighborhoods are composed of a range of housing options at varying affordability levels while also creating/protecting an environment that is vibrant and uniquely urban. Upzoning some areas from LDR to MDR, increasing the number of units allowed in the medium-density residential areas, and allowing built-as 2-4-unit homes in LDR to be rebuilt if they are damaged or destroyed increases the opportunity for housing options in all neighborhoods. This mix of housing is how Rochester originally developed and is characteristic of some of Rochester's most successful neighborhoods.

This goal is further achieved with the introduction of the FMU District. The FMU District is intended to permit a range of uses to help revitalize clusters of existing obsolete industrial complexes and large-scale buildings that have challenges in meeting current market demands. This district reflects the growing popularity of loft residences, unique businesses, artisanal crafts and production, light industrial, and creative adaptive reuse of legacy commercial and industrial buildings.

While reuse options have generally become more permissive, the proposed Code retains dimensional and design requirements as well as general development standards and use standards to protect the existing character of Rochester's neighborhoods. Additionally, the Zoning Board, Planning Commission, and Preservation Board remain critical partners in authorizing land use changes.

### 4. Housing Goal #4 (PP#3)

*HSG-4. Pursue new housing development that promotes the growth of the city's population and fosters the creation of vibrant, equitable neighborhoods.*

#### a) Restoration of More Medium-Density Residential Zoning

The change to allow more units in the MDR Districts will open opportunities for additional housing units, including additional affordable units. Owners of homes that are 1,500 sq.ft. or larger will be permitted to convert portions of the home to apartments, thereby providing them with a wealth-building opportunity and providing income to help maintain and upgrade the home. Lastly, an additional benefit of more MDR districts

replacing LDR districts, is that increasing density will bring more people to support local businesses to create more neighborhood vitality.

b) [Eliminating the Prohibited Variance](#)

Eliminating the Prohibited Variance section of the existing Code, as discussed in sections above, allows property owners with financial hardships the opportunity of converting homes to apartments as long as that conversion does not have negative impacts on the neighborhood.

c) [Changes to Non-Conforming Use Damage and Destruction Provision](#)

The proposed Code introduces an exemption for built-as 2, 3, and 4-family homes from the damage and destruction provisions of the nonconformity regulations. This means that if those buildings exist anywhere in the city and they are damaged to any degree, they can be rebuilt. This new provision mostly impacts the LDR district. The reason for this new provision is to remove the current barrier for an owner-occupant to purchase one of these existing homes. When a lender sees that the nonconformity provisions of the Zoning Code do not allow the reconstruction of a building if it is destroyed, it will typically deny financing. If financing is denied, the property is subject to only cash sales which can inhibit reinvestment and limit potential owner occupants from purchasing these properties. Additionally, this new exemption will allow a property owner the ability to obtain a home-equity loan or line-of-credit to make property improvements so they can maintain/upgrade the property, thereby avoiding a potential blight on the neighborhood.

d) [Pocket Neighborhood Introduced](#)

The new “Pocket Neighborhood” provisions allow an opportunity for unique housing options that were advocated for by members of the Rochester community. The proposed code for pocket neighborhood residential development allows for small lot residential development and/or cohousing options in a manner that organizes dwellings around shared spaces, designed as a cohesive whole, and maintained in shared ownership/stewardship by residents. A pocket neighborhood may also contain shared facilities for residents of the development, such as a common kitchen, laundry areas, or recreation and gathering spaces. This housing option could be used for co-housing construction, a new tiny-home community, or other housing configurations that allow for elements of communal living.

e) [Live-Work in Low-Density Residential](#)

During the Covid-19 Pandemic, many people experienced the option of working from home and it appears this new way of working is a trend that is not going away. The proposed Code adds the allowance for Live-Work in the Low-Density Residential District so it is now allowed in all residential districts, with limitations. Live-Work is defined in the proposed Code as, “A dwelling unit or sleeping unit in which no more than 50% of the dwelling unit includes a nonresidential use that is operated by the resident.” To protect the character of residential districts, the following proposed limitations are imposed on Live-Work uses:

- No more than one person who is not a member of the family residing on the premises shall be employed in the live-work unit.
- No stock-in-trade shall be visible from the street.
- There shall be no outdoor storage of equipment or materials.
- A commercial vehicle shall be permitted, subject to specified requirements.
- Promotional and sales events shall be limited to no more than four events per year and shall be limited to the hours of 10:00AM and 9:00PM. All promotional and sales events shall be indoors.

- No mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisance outside the residential or accessory structure shall be used.
- No live-work unit shall be permitted which is noxious, offensive, or hazardous by reason of hours of operation, vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation, or other objectionable emissions.

f) [Owner-occupied Boarding Houses allowed in LDR and MDR](#)

In the existing code, rooming houses (renamed boarding houses in the proposed code) are first allowed by Special Permit in the R-3 High Density Residential District. The proposed Code allows them in the LDR and MDR by Special Permit, only in a home that is owner occupied. The on-site owner is responsible for the upkeep and operation of the home and the Special Permit can be revoked if the property causes problems for the neighborhood. This option allows an additional housing type in the low and medium-density residential neighborhoods and wealth-building options for homeowners with large homes that are expensive to maintain. It's important to note that homeowners are allowed to rent out two bedrooms for roomers in any zoning district without a Special Permit. That is allowed as of right.

g) [Introduction of the Accessory Dwelling Unit](#)

As a result of public and agency input, ADU's have been added to the proposed Code to provide an additional housing type to the City housing options. The proposed Code defines ADU's, allows them in all districts other than LDR, and provides a list of standards for them. ADU's provide a housing option for in-law apartments, student housing, affordable units, or special-needs housing.

h) [Elimination of Minimum Lot Sizes](#)

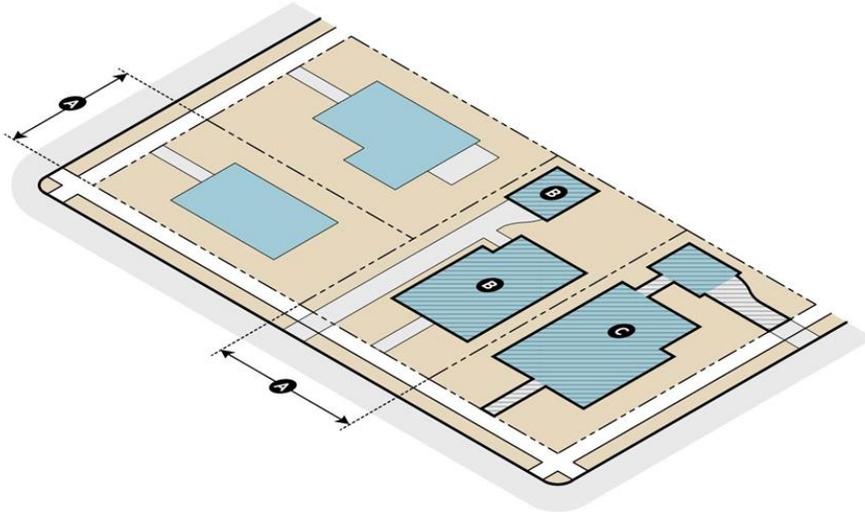
Rather than regulating the scale of development through minimum lot size requirements, the proposed Code regulates scale through lot frontage, setback, and coverage requirements. Not relying on lot size minimums allows the option to build small houses on small lots offering another housing option for city residents. In addition, as indicated in the purpose statements of each residential district, each neighborhood is unique in character, regardless of the zoning district. In using lot frontage instead of minimum lot sizes, this will allow such unique character to be appropriately maintained within the given threshold

Currently, the minimum lot size of 5,000 square feet for R-1, introduced in 2003, forces relatively large lots which is unnecessary and inconsistent with the historic development of Rochester. Most of City residential lots are about 4,000 square feet. There are, however, lots in the city that are under 4,000 square feet and, for decades, the City has characterized lots under 4,000 square feet as "unbuildable." They are not necessarily, however, unbuildable. There should be the opportunity to build homes that are smaller in size or uniquely shaped to take advantage of the smaller lot.

The proposed Code regulates "lot frontage," (See Figure 8 below) forcing some consistency with the existing lot frontages. The code states that new lots must match the "average lot frontage of lots on the block

frontage, allowing a range of +/- 20% from the average, but not to exceed a difference of 10' from the average."

Figure 8 Lot Frontage



#### 5. Public Health and Safety Goal #2 (PP#1)

*PHS-2. Incorporate preventative public safety and active design principles into the built environment through development projects and infrastructure.*

The proposed Code creates a positive impact on public health and safety in a number of ways. The overall district and use structure ensure that each district contains the appropriate mix of uses and builds in standards for compatibility both within the district and with adjacent districts. These are standards that range from regulating certain aspects of use operation to site development standards that mitigate potential negative impacts from adjacency of incompatible uses.

The proposed Code contains increased mixed-use development, which by nature creates a lively and safe environment within the public realm. This mixed-use orientation is tied to another key principle of the proposed Code, which is to create a pedestrian-friendly, walkable environment. This creates "eyes on the street," a term coined by Jane Jacobs, the "mother of urban planning". "Eyes" help to deter criminal activity and maintain a sense of community in public spaces. Walkable neighborhoods also improve public health because, as the definition of the term indicates, it encourages people to be more active.

Finally, design standards for new development also complement these efforts to promote "eyes on the street." A key example is the requirement for transparency. Requirements for ground floor transparency increase public safety by allowing people to see both inside and outside the building more easily. This increased visibility helps to deter illegal activity. In addition, in cases of emergency, transparent ground floors allow those responding to the emergency the ability to assess the situation inside the building and more efficiently determine the appropriate response.

#### 6. Historic Preservation Goal #4 (PP#4, PP#2)

*HIS-4. Use local regulations and programs to supplement the State and federal government's protection of historic resources.*

The proposed Zoning Code and Map retain the regulations and mapping for Local Landmarks and local Preservation Districts. The Rochester Preservation Board will continue to oversee and regulate work that involves Local Landmarks and Preservation Districts. Additionally, as recommended in a strategy for goal HIS-4, the proposed Code retains regulations for Designated Buildings of Historic Value (DBHV). The proposed Code goes further by transferring the review authority for DBHVs from the Zoning Board of Appeals to the Preservation Board. The Preservation Board has more expertise in historic preservation issues than the ZBA and will now be responsible for reviewing and approving requests related to the designated buildings.

#### 7. Urban Agriculture Goal #1 (PP#4, PP#2)

*UAG-1. Support urban agriculture as a valid reuse option for vacant land and vacant buildings.*

Where the existing Code is essentially silent on urban agriculture, the proposed Code introduces provisions for urban agriculture in two forms – Community Garden and Urban Farm. The differences are generally around the scale of the agricultural operation and selling of produce.

A Community Garden is defined as:

“An operation in which residents grow food and/or ornamental plants and create community-building spaces. Produce is consumed by local households or donated to community organizations. Community gardens may offer a small amount of their product to be sold to support garden operation costs, but no onsite permanent structure is used for sales. Community gardens may include small-scale composting systems, low tunnels and temporary season extension equipment, water barrels, and other catchment/irrigation systems.”

An Urban Farm is defined as:

“An operation in which food and other agricultural products are grown primarily for sale. Sales may occur on- or off-site. Urban farms may be community-driven, cooperatives, or sole proprietorships, and either not-for- or for-profit. Keeping livestock, chickens, and bees (apiaries) as ancillary to growing operations may be part of an urban farm. Structures supporting farm operations, such as office space and classroom space, may be permitted as part of an urban farm.”

These two principal uses are included in the Use Matrix and include operational standards to avoid potential negative impacts to adjacent residents.

#### 8. Transportation Goal #1 (PP#5, PP#6)

*TRN-1. Expand and strengthen Rochester’s multi-modal planning, policy, programming, and infrastructure maintenance.*

Strengthening the multimodal transportation network is a driving factor and major component of the proposed Code and Map. Rochester continues to see a renewed interest in the benefits of city living with its walkability and other mobility options such as bike share, ride share, and e-scooters. Transportation alternatives to vehicle use, along with ample on-street parking, reduces the need for surface parking lots in the city. Requiring businesses to develop parking is often unnecessary and can impede business development. The 2003 Zoning Code substantially reduced the minimum parking requirements of the previous Zoning Code in response to emerging mobility trends and a desire for a vibrant urban character. The proposed Code reduces that requirement even further by eliminating minimum parking requirements in mixed-use, industrial, and commercial districts.

Design in the proposed Code is driven primarily by the factors discussed above relating to creating a built environment that is walkable, provides a sense of place, and can withstand the test of time. Standards require buildings to front on a street and avoid blank walls. If blank walls and backs of buildings face streets, people will not feel safe or connected to the area which discourages walking.

To ensure that there is adequate electric vehicle infrastructure, the proposed parking regulations include requirements and standards for EV charging stations.

The proposed Code supports bicycle transportation by uncoupling bike parking requirements from vehicle parking requirements and increases the required bicycle parking.

The proposed Code and Map aim to increase density along transit routes, helping transit usage. Dense mixed land use reduces automobile dependency and facilitates other modes of transportation. Walkability is enhanced with a dense mixture of housing and businesses, diminishing the need for vehicular transportation and parking spaces.

## VI. ALTERNATIVES

### A. No-Action: Development under Existing Zoning

Under the No Action Alternative, land use development would continue to be regulated by the existing Zoning regulations governing physical development in the City of Rochester. This alternative would not further the City's adopted goals of *Rochester 2034*. Without the adoption and implementation of the Proposed Action, many of the public benefits identified in the DGEIS related to equity and sustainability could not be realized. While the existing regulations may be sufficient in some sections, the benefit of the Proposed Action is that it provides a way the City can accommodate growth in the appropriate areas while preserving neighborhood character and protecting the City's valuable resources. Without adoption of the proposed Code and Map, housing options would continue to be limited, nonconforming buildings would continue to be positioned for disinvestment and blight, transit corridors would retain zoning that is underutilizing the development potential and unsupportive of the bus system, urban agriculture would continue to have no path to legalized development, the R-1 zone would continue with the restrictive zoning that has left people out over the years, business development would be limited by forced on-site parking, and alternative energy installations would continue to be overly restricted.

Importantly, without adoption of the new Code and Map, Rochester would not be in compliance with New York State zoning enabling law, which requires a municipality's zoning to be consistent with its Comprehensive Plan. If the City fails to adopt a new Code and Map, it would need to reverse years of work, planning, and community input and support and would have to rescind the adoption of *Rochester 2034*.

### B. Incremental Adoption – A Phased Approach

While the proposed action is comprehensive in nature, the scale and scope could be reduced or adopted incrementally. One option is to adopt just the new Map and retain the existing Code. However, the proposed Map works in concert with the Code amendments to fully implement the vision and goals set forth in *Rochester 2034*. If the Map retained the existing district nomenclature in updated configurations there would be several benefits of the proposed Code achieved, such as reduced nonconformities, expanded mixed uses, and an increase in density along bus routes. However, many benefits of the proposed Code, would be lost, with the continuation of an R-1 district that lacks diverse housing options, both in terms of affordability and

housing type, failure to eliminate the prohibited variance, less flexibility for responding to land use trends and changes, no new FMU district, no improvement of the sign regulations, limitation of business development through parking mandates, etc.

Phasing Code adoption by replacing sections of the Code incrementally is possible, but the Code sections are interdependent so the integrity of the Code would be compromised. Together, the various components of the proposed Code mutually support one another and are intended to allow all the changes to work together toward achieving the vision and goals of *Rochester 2034*.

## VII. OTHER SEQR ISSUES

### A. Unavoidable Adverse Impacts

No unavoidable adverse environmental impacts are anticipated from the action of adopting the Zoning Code and Map, which have been prepared to guide future development in accordance with sound land use and environmental management practices. Future specific proposed actions governed by the Zoning Code and Map may create adverse impacts and those actions will be subsequently reviewed under SEQR to evaluate and mitigate possible impacts. The nature of Zoning regulations, however, is to permit development that avoids potential impacts. Strict adherence to the Code is part of an overall process and strategy for avoiding adverse impacts and allowing development that is consistent with the character of the neighborhood and socially and economically beneficial to the community.

### B. Irreversible and Irretrievable Commitment of Resources

Administrative implementation of the new Code and Map will require staff and community training, impacting some services and budgetary allocations.

The proposed Code does not require and only enables and supports future development. The proposed Code and Map will not by their mere adoption cause an irreversible and irretrievable commitment of resources. However, if future developments occur, that development will require the commitment of previously developed or currently underutilized urban land for the life span of the project. This land use is considered an irreversible commitment, but only during the expected lifetime of the development. Once the land is no longer needed for buildings and ancillary facilities, they can be removed and the land can be converted to a different purpose.

Future development will require irreversible and irretrievable commitments of human and fiscal resources to design, build, operate and maintain the facilities. Human and financial resources will also be expended by the local, state and federal governments for the planning, environmental reviews, permitting and/or monitoring.

These minor commitments of land and human resources and materials should be weighed against the public purpose and need for the action to stimulate the economy and provide a better quality of life for existing and future residents.

### C. Growth Inducing Impacts

Although it is not possible to predict the growth that may occur, future development consistent with the new Code and Map may create impacts that will have to be assessed and mitigated, if necessary, through the permitting and budget processes. The potential impacts of future growth that is consistent with the proposed Zoning Code and Map is acknowledged throughout this GEIS and mitigation measures (i.e., conversion

standards, dimensional and design requirements, use standards, development standards, etc.) are fully identified and explained.

Large developments are likely to be subject to Site Plan Review which includes a comprehensive review that includes several offices of the City and county government. Larger projects are often the subject of a preapplication meeting that informs the potential applicant of a range of potential impacts that must be mitigated as part of the application process. The Site Plan Review process takes the application and distributes it for both information and to receive comments toward the permit approval or denial.

Demand for emergency services (police, fire, and associated ambulance services) will increase with future development which will be monitored through the permitting process. The costs associated with increases in demand will be partially offset by increased taxes generated by new development. The need for increased emergency services/equipment is part of the discussion each year during the budget process.

Existing utility networks and streets in Rochester were designed and constructed for a much larger population. In the 1950s, Rochester was the 32nd largest city in the United States with a population of 332,000 people. With a current population of 211,328 people, Rochester has room to grow without requiring any investment in the right-of-way network.

Growth will bring more people and increase demand for parks. The City of Rochester boasts substantial parkland across the city. Many of those parks, however, have been underutilized and under programmed due to budgets, staffing shortages, and lack of utilization. An increase in demand will help bring resources to some underutilized and under-resourced parks in the City.

#### D. Effects on the Use and Conservation of Energy

While adoption of the proposed Code and Map, in and of itself, will have no direct effect on the use and conservation of energy, the implementation of new site-specific development projects consistent with the proposed zoning has the potential to result in an increase in energy demand and use. The proposed Codes permissions and standards, however, encourage energy conservation and alternative energy installations which are likely to result in beneficial impacts overall. Increases in energy use is anticipated to be balanced as the City becomes more walkable and bikeable, transit use increases, and more renewable energy systems are installed and utilized.

Fostering development in the regional core, the City of Rochester, focuses development on land that is already urbanized and close to existing infrastructure. Development in the City, as opposed to development in suburban or rural greenfields, is inherently more energy efficient.

#### E. Effects on Solid Waste Management

Some potential impacts with respect to solid waste may occur if new growth requires additional refuse collection. This would be an incremental increase over a 20-year period, and it is likely that some existing buildings where refuse is currently collected by the City would be redeveloped to a commercial use or a multifamily that would then use private hauling contractors. Further, tax revenue would increase, potentially assisting with funding personnel needed to meet additional demand. Solid waste management in the City of Rochester is constantly evolving as new markets for recycled materials continue to open and other programs, such as municipal composting, continue to develop.

## F. Regional Context Review Considerations

Fostering development in the regional core, the City of Rochester, focuses development on land that is already urbanized and close to existing infrastructure. Development in the City, as opposed to development in suburban or rural greenfields, is inherently more energy efficient and reduces vehicle emissions.

Moreover, the proposed Zoning Code adds a new requirement for Site Plan Review to prepare findings related to regional context including:

- Pedestrian and Bicycle Linkages

To the maximum practical extent, new development shall be laid out and designed to provide walkways and paths that connect with destinations such as parks and trails, schools, and shopping areas within and outside the municipal boundaries.

- Transit Routes

Any proposed development shall consider the location of existing and planned transit routes and provide vehicular and pedestrian connections to any transit points within or adjacent to the development.

- Regional Sustainability

Regional sustainability plans, climate action plans, and other regional environmental goals shall be considered.

## G. Vulnerability from the Effects of Climate Change

The primary climate change vulnerability for the City of Rochester is related to stormwater and the potential for flooding. The proposed Code retains requirements for maximum impervious surface coverage to ensure that greenspace is provided on all lots in residential and VC districts. Principal and accessory structures are included in the calculation of maximum impervious surface coverage requirements. Additionally, all parking lots as a principal use in any district have a maximum impervious surface coverage limitation of 50%. Lastly, the regulations for the newly introduced Pocket Neighborhood include a maximum impervious surface limit of 65%.

To incentivize the use of pervious paving, the definition of *impervious surface coverage* includes the following qualification:

*When pervious paving or similar pervious surfaces are used, it is calculated at a reduced percentage 50% impervious surface, provided that no barrier to infiltration is installed beneath the material and the installation complies with the NYS Stormwater Management Design Manual and manufacturer's instructions.*

Community comments on the draft Scope for this GEIS indicated that the Zoning Code should address the issue of smoke pollution from distant wildfires. Recent wildfires produced smoke that affected air quality across the country, including Rochester. While this is a serious concern, a Zoning Code and Map cannot mitigate that impact.

## APPENDICES

- A. Rochester 2034 (Under separate cover; attached by reference)
- B. Proposed Zoning Code (Under separate cover; attached by reference)
- C. Proposed Zoning District Map
- D. CAMP Street Typologies Map

Appendix A- *Rochester 2034*  
(under separate cover)

[www.Rochester2034.com](http://www.Rochester2034.com)

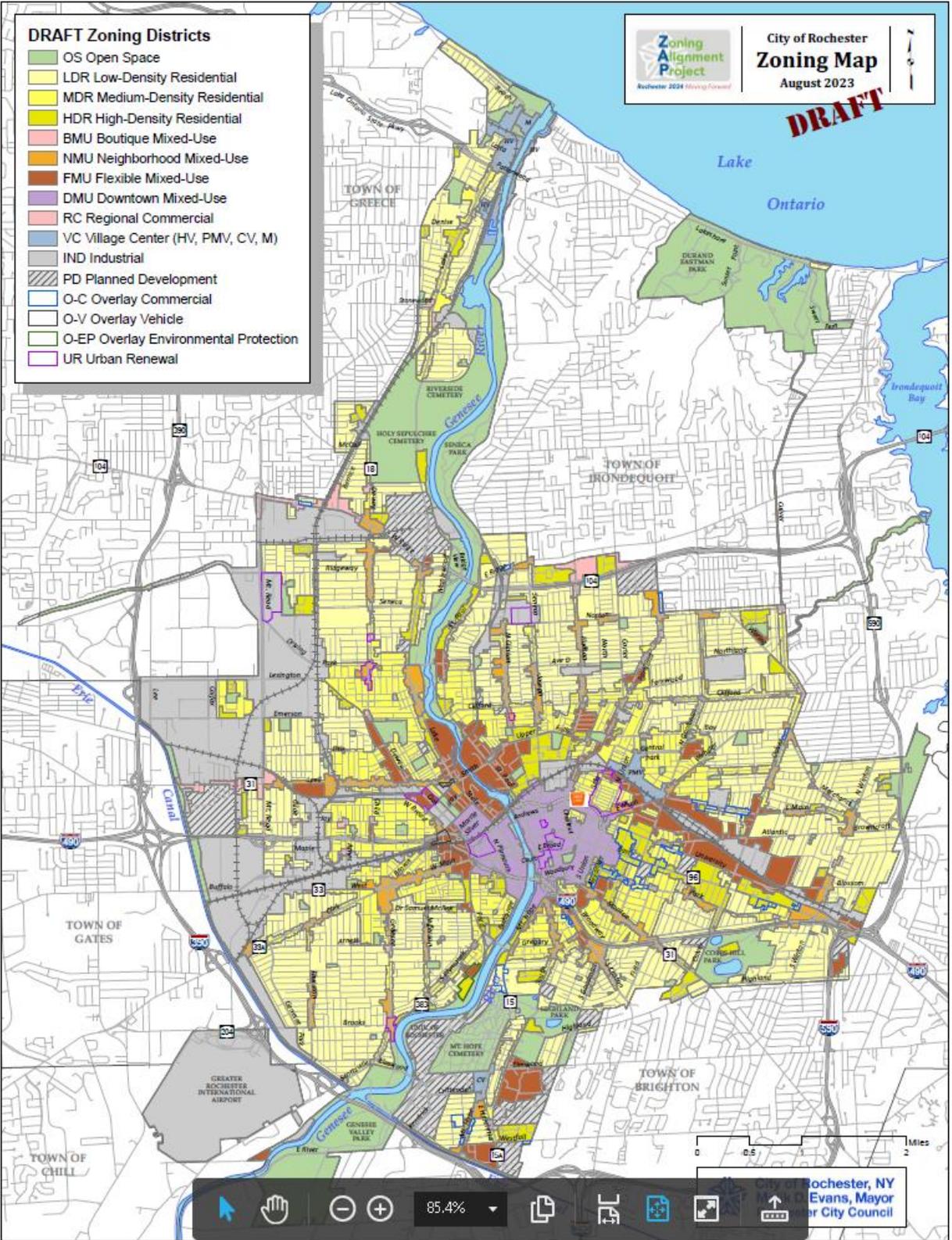
Appendix B- Draft Zoning Code  
(under separate cover)

[www.RochesterZAP.com](http://www.RochesterZAP.com)

# Appendix C- Draft Zoning Map

See next page or go to

[www.RochesterZAP.com](http://www.RochesterZAP.com)



# Appendix D- CAMP Street Typologies Map

See next page or go to

[www.RochesterZAP.com](http://www.RochesterZAP.com)

