



City of Rochester

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PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

400 Sixth Street

March 6, 2023

7:00 pm

NOTICE IS HEREBY GIVEN THAT THE ROCHESTER PLANNING COMMISSION will hold a Public Hearing for comments regarding the following Zoning Ordinance Amendment. The Public Hearing shall take place on **March 6, 2023, at 7:00 p.m.** at the Rochester Municipal Offices, 400 Sixth Street, Rochester, MI 48307 and via Zoom and can be joined at <https://us02web.zoom.us/j/83810261637>

For those who prefer to use a telephone to participate, you will need to call (646) 558-8656 and enter **meeting ID: 838 1026 1637**. When prompted, enter a participant number, or just touch the # key. During the call, use *9 to raise hand and you will be “called on” by the last 3-digits of your phone number. (For example, my last digits are 829. Callers will be asked to speak by referencing the last 3-digits of their phone number.) Note: Telephone participants will have their phone numbers masked, to protect their privacy.

AN ORDINANCE TO AMEND ARTICLE 11, CBD, CENTRAL BUSINESS DISTRICT, SEC. 1100, 1101, 1102 AND 1103 OF THE ZONING CODE OF THE CITY OF ROCHESTER, TO RESTRICT SOME USES TO UPPER, NON-STREET LEVEL STORIES.

THE CITY OF ROCHESTER ORDAINS:

Section 1. Article 11, Sections 1100, 1101, 1102 and 1103 of the Rochester Zoning Code shall be amended as follows:

“Sec. 1100. - Intent.

- (a) The CBD District is intended to function as an intensively developed, major business district, serving a large trade area extending beyond the city with retail, office, personal service, and institutional activities. To encourage and enhance pedestrian circulation, shopping safety, and convenience, certain uses are prohibited which tend to break up and disrupt the intensive concentration of pedestrian oriented uses, such as but not limited: automotive related service and repair including muffler shops, tire stores, quick lubes, auto body repair, engine rebuilding, brake shops, automotive stereo and telephone installation, and similar

automotive related activities, and certain uses that do not typically generate walk in traffic may be restricted to upper stories.

Sec. 1101. - Permitted principal uses.

[The following principal uses shall be allowed in the CBD, Central Business District:]

- (1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, notions, or hardware.
- (2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.
- (3) Restaurants and taverns where patrons are served only while seated within the building occupied by such establishment.
- (4) Theaters when completely enclosed, houses of worship.
- (5) Offices and office buildings of an executive, administrative, or professional nature. *See below for restrictions.
- (6) Banks, with drive-in facilities permitted when said drive-in facilities are incidental to the principal function.
- (7) Municipal buildings and post office.
- (8) Offices and showrooms of plumbers, electrician, decorators, or similar trades, in connection with which not more than 50 percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise; and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.
- (9) Business schools or private schools. Examples of private schools permitted herein include, but are not limited to, the following: dance studios, music and voice schools, and art studios.
- (10) Newspaper offices and printing plants. * See below for restrictions.
- (11) Warehouse and storage facilities when incident to and physically connected with any principal use permitted, provided that such facility be within the confines of the building or part thereof occupied by said establishment. * See below for restrictions.
- (12) Bed and breakfast homes, subject to section 2114.
- (13) Other uses which are similar to the above and subject to the following restrictions:
 - a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.

- b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.
- c. Outdoor storage of commodities shall be expressly prohibited.

*The uses set forth in Sec. 1101(5), (10) and (11) are not permitted on street level for properties fronting Main Street between 2nd Street and University Drive.

Sec. 1402. – Permitted accessory use.

[The following accessory uses shall be allowed in the CBD, Central Business District:]

- (1) Any use or building customarily incidental to a permitted principal use excluding any type of use that would otherwise not be permitted on street level under Sec. 1101.
- (2) Mechanical amusement devices, not exceeding three per establishment, and:
 - a. Licensed under chapter 6 of the City Code;
 - b. Only in a restaurant or tavern conforming to section 1101(3), [related to] permitted principal uses;
 - c. If in a restaurant or tavern serving alcoholic beverages, the establishment shall have a Class C liquor license.

Sec. 1103. - Special exception uses.

[The following special exception uses shall be allowed in the CBD, Central Business District:]

- (1) Bus station.
- (2) See section 2108 on public utilities and facilities.
- (3) Outdoor dining, when incidental to a permitted restaurant or tavern, and subject to section 2121, outdoor dining standards. Parking for an outdoor cafe shall be determined by the planning commission based upon the size of the outdoor dining area in relation to the permanent seating in the restaurant, as follows:
 - a. Outdoor dining areas that are strictly on a "weather permitting basis "may be approved without additional parking if there is seating for 30 or fewer patrons.
 - b. Outdoor dining areas for more than 30 patrons or those that use awnings, roofs, or similar permanent or temporary structures to extend the season and/or to avoid inclement weather conditions, such as rain, may be required to provide additional parking.
 - c. In determining whether a restaurant must provide additional parking for its outdoor cafe, the planning commission will use the following guidelines:

1. If the outdoor seating is 25 percent or less of the seating capacity indoors, no additional parking is necessary.
 2. If the outdoor seating is 26 to 50 percent of the seating capacity indoors, the restaurant may be required to provide up to 125 percent of the parking required for the indoor space.
 3. If the outdoor seating is over 50 percent of the seating capacity indoors, the restaurant may be required to provide up to 150 percent of the parking required for the indoor space.
- (4) Funeral home.
- (5) Adult bookstore, adult cabaret and adult motion picture theater as defined in article

39 (Definitions), but subject to the following restrictions and regulations, which shall be in addition to those set forth in article 26 of this zoning ordinance, to wit:

- a. These uses shall be situated within the district so as to be out of the reasonable proximity of uses selling alcoholic beverages and uses where minors are generally present; and, specifically, no such use shall be located within:
 1. 1,000 feet of a church or house of worship;
 2. 1,000 feet of a public or private school having curriculum including kindergarten or any one or more grades one through 12;
 3. 750 feet of an establishment licensed by the Michigan Liquor Control Commission;
 4. 1,000 feet of property zoned for any residential use under this ordinance, or a residential dwelling;
 5. 750 feet of another adult bookstore, adult cabaret, or motion picture theater.

- b. These uses, when permitted, shall, in addition to any other condition of approval required by the planning commission under article 26 hereof, comply and adhere to the following regulations in their daily operation:
 1. No person under 18 years of age shall be permitted entry into an adult motion picture theater, adult cabaret or adult bookstore unless accompanied by the parent or legal guardian of such person. For purposes of enforcing this provision, the owner or agent of the person or entity operating the adult use shall require from all persons desiring to enter therein, the display of sufficient identification to ensure compliance with this provision, and for all determinations whether this provision has been satisfied, it shall be the burden of proof of the owner of the adult motion picture theater, adult cabaret or adult bookstore, to show clearly that the display of identification was required and that the identification displayed was sufficient.

2. No person under 18 years of age shall be employed by, or shall otherwise be permitted to be present at, or in, an adult motion picture theater, adult cabaret or adult bookstore.
 3. Each and every person desiring to enter an adult motion picture theater shall be expressly verbally advised immediately prior to entry by the owner or agent of the person or entity operating the adult motion picture theater that the display to be presented on such occasion includes the display of specified sexual activities.
- c. An adult bookstore, adult cabaret, or adult motion picture theater is prohibited in any district and at any location within the City of Rochester except as a special exception use in the CBD, Central Business District, as provided for herein.
- (6) See section 2111 on upper story apartments.
 - (7) Overnight lodging facilities subject to the following standards:
 - a. Each rental unit shall be no less than 250 square feet in floor area; ~~and~~ b. Each unit shall have its own private bathroom facility;
 - ~~b.c.~~ Rental units are not permitted on street levels.

Section 2. SEVERABILITY

If any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this Ordinance, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 3. REPEAL

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.”

All interested citizens are requested to attend the Hearing. Public comments will be received up to and during the Public Hearing, orally or in writing. If you are unable to be present at the Public Hearing, please submit your written comments to the Office of the City Manager, Rochester Municipal Offices, 400 Sixth Street, Rochester, MI 48307, PRIOR to the scheduled Public Hearing.

For further information, please contact **Patrick Meagher**, Community Development Director, at **248-733-3700**.

Publish: Oakland Press before February 19, 2023

NOTE: Anyone planning to attend the meeting who has need of special assistance under the Americans with Disabilities Act (ADA) is asked to contact the City Clerk’s Office at 248-651-9061 forty-eight (48) hours prior to

the meeting. Staff will be pleased to make the necessary arrangements to provide necessary reasonable accommodations, including auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting.