

# DRAFT TEXT: CN-NR DISTRICT

The following document depicts the proposed amendments to the *Rochester Zoning Ordinance and Land Development Manual* necessary to add a new low density zoning district to be known as the Core Neighborhood, Neighborhood Residential zoning district (CN-NR). Words to be removed from the present text of the Zoning Ordinance will be indicated by the strike-through font and new language to be added will be shown in bold, italic and underlined text. The new tables for the CN-NR District to be added to the Zoning Ordinance are in a separate attached document. Document Date – February 6, 2013.

## I. To be added to list:

### 60.200 Definitions

**Build-to line: The line at which construction of a building, excluding porches, bay windows, covered porches, decks, and patios, is to occur on a lot. A build-to line typically runs parallel to the front property line and is established to create an even building façade line on a street.**

**Caliper: A nursery stock measurement in inches of tree trunk diameter used to standardize plant size. Trunk caliper for trees up to four inches is to be measured six inches above the soil line and trees greater than four inches in caliper are measured 12 inches above the soil line**

**Chain-link Fence: A fence of steel or aluminum posts and wires woven into a diamond pattern which may have a galvanized, painted or vinyl coated exterior finish.**

**Transparency: The ability to see through with clarity. An opening in the building wall allowing light and views between interior and exterior. Measured as glass area for buildings, glass or screen area for porches and as open area for parking structures.**

## II. To be added to table:

### 60.310 ZONING DISTRICTS:

For the purpose of this ordinance, all land and water areas in the City of Rochester are hereby classified into zoning districts which shall be designated as shown in the chart below. To differentiate those areas of the City subject to more traditional zoning controls from those areas subject to performance-oriented controls, all zoning districts

are grouped under one of two umbrella classifications entitled “Performance Districts” or “Established Districts”.

<b>PERFORMANCE DISTRICTS</b>	
<b>SYMBOL</b>	<b>DISTRICT TITLE</b>
D	Developing District
CDC	Central Development Core
<b><u>CN</u></b>	<b><u>Core Neighborhood Districts</u></b>
<b>ESTABLISHED DISTRICTS</b>	
R-Sa	Mixed Single Family Overlay
R-1	Mixed Single Family
R-1x	Mixed Single Family Extra
R-2	Low Density Residential
R-3	Medium Density Residential
R-4	High Density Residential
B-1	Restricted Commercial
B-2	Pedestrian Oriented Restricted Commercial
B-4	General Commercial
B-5	Residential Commercial
M-1	Mixed Commercial-Industrial
M-2	Industrial
M-3	Low Intensity Mixed Commercial

	Industrial
AG	Agricultural
MRD	Mixed Redevelopment
FF	Flood Fringe
FW	Floodway
FP	Flood Prone
PUD	Planned Unit Development
SD	Special District
H	Holding Zone
I	Interim Zone

III. New section to be added:

**60.322a Subdivision 1. Core Neighborhood Districts Subdivision 1. The Core Neighborhood Zoning Districts are Developing Districts primarily intended for application in the established neighborhoods surrounding and radiating out from the Central Development Core or in planned neighborhoods in the undeveloped urban growth area. Core Neighborhood zones are designed to reflect the planning objectives of specific adopted documents such as the Downtown Master Plan and other site specific planning documents such as the Second Street Corridor Plan. As presented when offered for amendment, the Core Neighborhood Districts may be drafted to supplant established low density, medium density, high density, commercial or mixed use established zoning districts. The Core Neighborhood districts are intended to:**

1. **Allow land use consistent with historically dense, mixed use urban neighborhoods**
2. **Provide flexibility in lot size, configuration, vehicular access, and parking to facilitate infill development;**
3. **Provide urban neighborhoods with efficient land use and cost-effective delivery of urban services;**

4. Promote development that meets current needs without compromising the ability of future generations to meet their own needs;
5. Encourage development of needed housing in close proximity to employment and services;
6. Provide clear development standards that promote compatibility between new and existing development and promote certainty in the marketplace;
7. Encourage development and preservation of affordable housing through infill development, and
8. Foster greater civic community by developing attractive streets and public spaces that promote active living through increased pedestrian activity, minimization of automobile trips, and encourage social interaction and gatherings.

The Core Neighborhood Districts presently contain the following specific zoning district(s) and in the future other districts may be added by amendment:

- 60.322a Subdivision 2, CN-NR – Neighborhood Residential  
The CN-NR, Neighborhood Residential, district is intended to maintain and promote low density, pedestrian oriented residential area primarily composed of one-family detached dwellings. This district encourages infill development with greater flexibility in density, lot size and shape, building siting, and parking standards appropriate for compact neighborhoods that contain nearby commercial uses and public open spaces. This district is considered appropriate in areas designated “Low Density Residential” on the Land Use Plan. This district is a defined “residential” and a “Low Density Residential” district considered interchangeable with the R-1X (Mixed Single Family Extra) Established zoning district if such a interpretation is necessary to effectively administer the Zoning Ordinance and Land Development Manual.

IV. To be added to section:

#### 60.605 NEIGHBORHOOD INFORMATIONAL MEETINGS:

Subd. 1. **Neighborhood Meetings Encouraged/Required.** Applicants for General Development Plan approval, site planning permits and conditional use permits are strongly encouraged by the City to meet with property owners who will be affected by the proposed development, if the property is located in a Core Neighborhood

**Zoning District applicants shall conduct a neighborhood meeting.** Applicants for land use plan map and zoning map amendments, and for conditional use permits under article 62.1100 shall conduct neighborhood meetings when the proposed amendment will allow uses projected to generate greater traffic volumes or generate greater volumes of truck traffic than the current designation would allow. Applicants for conditional use permits under article 62.940 shall conduct a neighborhood meeting under all circumstances.

Subd. 2. **Location and Notice.** When a meeting is conducted, the applicant shall bear responsibility for providing a meeting location and for conducting the meeting. If conducted, the applicant shall provide notice of the time and place of the meeting as provided for in section [60.630](#) and to the City Council. **If the site of the application is in a Core Neighborhood District, the President(s) of any Neighborhood Associations with boundaries within the notification area must also be notified.** City staff may attend such neighborhood meetings to gather information and to highlight relevant requirements of this ordinance as needed, but shall not organize or control the meeting. City staff shall not present, evaluate or approve development proposals at Neighborhood Meetings. Following the meeting, the applicant shall submit to staff a written summary stating the time and location of the meeting, the number of attendees and the topics discussed.

V. To be added to section:

**60.424 Specific Policies:**

Subd. 5. **Lot Area and Frontage:**

A. **Type I Design Modifications:** The zoning administrator may permit as a Type I Design Modification:

- (1) The development of single family detached dwellings on lots smaller than those required by the ordinance in an R-1, **CN-NR**, R-1x, or R-2 Zoning District if consistent in lot area and frontage with adjacent developed parcels. To determine the frontage or lot area requirement, the following procedure shall be used:

VI. To be added to section:

**60.424 Specific Policies:**

Subd. 6. **Height:**

A. **Type I Design Modification:** The Zoning Administrator may permit as a Type I Design Modification the following:

- (1) Appurtenances attached to the side of the building or free standing such as private antennas, chimneys, flagpoles, bell towers, smokestacks, steeples, spires, parapet walls, skylights, Small non-utility WECS and WECS meteorological towers.
- (2) Rooftop appurtenances such as fire escapes, antennas, satellite dishes, mechanical penthouses, ventilators observation or bell towers, smokestacks, steeples, elevator bulkheads, rooftop water towers or cooling towers, domes or spires, Small non-utility WECS with no limitation on height, provided they do not occupy more than 25% of the roof area and provided that all mechanical equipment is screened.
- (3) Freestanding structures without limitation as to height subject to the following requirements:
  - (a) Silos, barns, grain elevators and water towers shall be setback at least 50 feet from any property line.
  - (b) Transmission towers, and communication and wireless telecommunications towers shall be setback from property lines a distance equal to the height of the structure. Guy wires for towers shall be located no closer than ten feet to any property line and suitable protective anti-climbing fencing shall be provided around any transmission tower.
  - (c) WECS and WECS Meteorological Towers. The structure setback – 1.1 times the combined height of the tower and rotor.

The limited modification of height requirements may be considered as a Type II Design Modification. The zoning administrator and Commission shall investigate the effect of shadows, loss of privacy, and the closing of views resulting from the contrast created between the height and location of the proposed building with existing buildings or adjacent open spaces in making a determination to approve the proposal. In addition, fire officials and building officials shall be consulted to see if any public safety concerns will be created by the additional building height.

No more than 25% increase in height in any Residential District or 50% increase in height on a parcel zoned in a non-residential district which abuts an R-Sa, R-1, **CN-NR**, R-1x, or R-2 District may be considered as a Design Modification. In all other instances, up to 100% increase in height may be considered.

VII. To be added to section:

**61.142 Procedures:** Uses identified in the zoning district tables as Type II uses are reviewed under the Type II Review Procedures. Uses identified as Type III are reviewed under the Type III Review Procedure with a Phase I hearing process utilized. The designated hearing body shall be the Planning Commission. **Uses identified as Type III in a Core Neighborhood Zoning District shall be reviewed under the Type III Review Procedure with a Phase III hearing process.**

VIII. To be added to section:

**61.211 When a General Development Plan is Required:**

Subdivision 1. Approval of a General Development Plan shall be required for any site where the eventual platting of the property involves approval of a Type III land subdivision permit. A General Development Plan also shall be required for land use plan amendments and for any upzoning to the R-1x, **CN-NR**, R-2, R-3, R-4, M-1, M-2, **M-3**, B-1, B-2, B-4 and B-5 zoning districts and for the division of any land zoned as such, except where the General Development Plan, land use plan amendment or upzoning is initiated by the City. No Type III land subdivision permit shall be approved until a General Development Plan for the property has been approved. A General Development Plan is not required for Type I and II applications for which no TIR is required pursuant to section [61.520](#) and no new street connections are necessary.

IX. To be added to section:

**61.532 Site Capacity Calculation Procedure**

**C. Determination of Site Capacity/Permitted Amount of Building:**

- 1) The site capacity for residential density is determined by calculating the NET BUILDABLE AREA and multiplying this number by the density factor permitted in the applicable zoning district. For residential uses types for which density factors are not provided, the density factors for performance residential development shall apply. For the **CN-NR**, R-1 and R-Sa Districts, the density factor for performance residential developments applicable in the R-1x District shall apply. The calculation is as follows:

XI. To be added to section:

**62.141 Residential Uses:** The following is a list and description of the residential use categories:

- 1) **Single Family Detached:** A one family detached dwelling as defined.
- 2) **Single Family Attached:** A one family attached dwelling as defined.
- 3) **Duplex:** A two family dwelling as defined.
- 4) **Performance Residential Development:** A development consisting of one or more types of detached or attached one and two family dwellings developed according to the standards established for performance residential use in this ordinance. ***In the CN-NR district, performance residential developments are referred to as “townhouses” which are a type of attached one family dwellings that must only meet selected standards established for performance residential uses in 62.261 or setbacks in 62.283-62.285.***

**XII. To be added to section:**

62.261 **Performance Residential Development:** Performance Residential Developments (PRD), ***also known as “townhouses” in the CN-NR district,*** are approved either as zoning certificates through the Type I process or are required to go through Type II Conditional Use or Type III Incentive Development approval prior to issuance of a zoning certificate. The criteria for this determination is contained within the requirements of this paragraph. All PRD is subject to the requirements of subparagraph (1) below.

- 1) **Standards Applicable to all Performance Residential Development:**
  - a) **Submission Criteria:** The information to be submitted with an application for approval shall be that required for Conditional Use permits, as outlined in Appendix B, along with two copies of the legal instruments providing for care and maintenance of common areas and shared facilities (such as documents establishing a homeowners association). In addition, plans for sewer, water and roadway facilities shall be submitted where buildings are not serviced solely by service connections to existing public facilities.
  - b) **Review Process:** The following requirements will guide the process utilized to review a PRD:



- 1) A determination shall be made by the zoning administrator on whether platting of the site is necessary. Where it is found that an existing plat or registered land survey already exists to support the final planned lot configuration, no replatting shall be required as long as adequate access is assured and the access is adequate to meet the requirements for emergency vehicles specified in [63.500](#). Where it is determined that platting is required, the process for approval of a Land Subdivision Permit and Final Plat, as outlined in Chapter 61, shall be followed. The zoning administrator may allow as-built platting as a condition of site plan approval if a bond or other sufficient surety is provided at the time of zoning certificate approval to cover the cost of platting.
  
- 2) Submittal of building/structure and site improvement plans for any Type I or II development may be done in one of two ways. A master plan for the entire development may be submitted, containing the information necessary to establish conformance with the basic ordinance requirements for density/floor area, recreation space, landscape area, bufferyards, communal parking and standards for private or public utilities, roadways, and runoff/erosion control improvements. In such cases, zoning certificate approval for individual buildings or building groups will be done at a reduced fee. Evidence of conformance with the remainder of the ordinance requirements must be submitted at the time of zoning certificate approval. A master plan shall be required for phased developments where the applicant wishes to exceed the density limits for the district in one phase but retain an overall site density within ordinance standards.

An applicant may also choose to submit complete plans for the entire development or only a portion of the site planned for eventual development initially.

- 3) A Type III application shall follow the procedure for Incentive Developments outlined in Article 62.600 of this ordinance, subject to the additional submittal requirements under Paragraphs 62.261 (1) (a) and (1) (b) (1) above.
  
- 4) Minor changes to any approved PRD may be approved by the zoning administrator under the requirements of Paragraph [61.148](#).

- 5) Major changes to an approved PRD shall be processed as a new application.
- 6) Where the site of a completed or partially completed PRD is proposed for resubdivision, the existing development will be reviewed for continued conformance with all ordinance requirements under the proposed lot arrangement.

c) **Project Criteria:** Basic criteria applicable to all PRD include:

- 1) Each unit shall have approved access to a public or private street by means of frontage, easement agreement, or by way of common area agreements established as part of a homeowner's association or condominium arrangement.
- 2) A staging plan for development of common improvements such as recreational areas shall accompany all applications proposed for phased development. A sufficient portion of such elements shall be developed with each phase so that the completed portion of the development could meet ordinance requirements should further phases not be developed.
- 3) The minimum distance between walls shall be equal to the sum of the performance yards required for each wall. **In the CN-NR District the distance between walls separating buildings shall be the sum of the required interior sideyards in the district.**
- 4) Yards for dwellings which front on common parking areas may be reduced by 20 percent, while yards abutting parkways, walkways or other public open space may be reduced by 30 percent.
- 5) Where off-street parking is not provided on a communal basis, the plan shall indicate a garage site for all units whether or not garages are intended to be part of the initial development.
- 6) The maximum number of buildings which may be attached in an R-1x or R-2 District is five, and nine in any other district **with the exception of the CN-NR District where the limit to the number of attached dwellings is three and cannot be increased as other**

**districts can according to the remainder of this paragraph .**  
Increases to this are permitted subject to the following rules:

**XIII. To be added to section:**

**62.263 Other Residential Uses:**

- A. **Group Residential Care:** Uses shall be licensed under the State of Minnesota Public Welfare Licensing Act and proof of such licensing shall be required prior to zoning certificate approval.

In all districts, a day care facility serving 14 or fewer dependents or a residential facility serving six or fewer dependents is a permitted Type I use subject to meeting the requirements for single family detached dwellings. Where single family dwellings are not permitted, the applicable requirements shall be those of the R-2 District.

A day care facility serving between 14 and 20 or a residential facility serving between seven and 16 dependents is a permitted Type I multifamily use in the R-3 and R-4 Districts, subject to the same requirements as multifamily residential dwellings. In the R-1, **CN-NR, R-1X** and R-2 Districts, such development shall be a Type II conditional use.

**XIV. To be added to section:**

**62.273 Accessory Building in Residential Districts-General:** The following general regulations apply to garages, accessory buildings and structures in residential districts:

1. **Location:** Detached garages and accessory buildings accessory to a residential use may be located:
  - A. in the buildable lot area;
  - B. in the required rear yard to within 18 inches, or five feet when in the R-Sa District, of any lot line of adjoining lots, or to within five (5) feet of any lot line separating the lot from an alley, except in the case where the wall of

the accessory building facing an alley contains doors which will permit the parking of vehicles or recreational vehicles within the accessory building, in which case the setback shall be 18 feet **notwithstanding, in the CN-NR district even if it is the case that the doors of the accessory building face an alley only the five (5) foot setback from the lot line separating the lot from the alley must be maintained by the accessory building (garage);**

- C. in a side yard to within 18 inches, or five feet when in the R-Sa District, of the lot line where the adjacent lot is developed with a principal building and the front wall of the accessory building is located at a greater depth from the front lot line than the rear wall of the principal building on the adjacent lot, or where the side yard abuts the rear yard of an adjacent corner lot;
- D. in a side yard at a setback equal to one-half of the required side yard setback (for new garages) or 18 inches for additions or garages existing on the effective date of the ordinance, where the distance from the front wall of the accessory building to the front lot line is greater than 50 percent of the lot depth.
- E. **In the CN-NR district on a lot with access to an alley, a new detached garage must be provided with vehicular access from the alley**
- F. **In the CN-NR district if a new detached garage is located closer than six (6) feet to a side lot line in the buildable area of the lot or as otherwise permitted to be located in the required rear or side yards, any at-grade off-street parking areas accessory to the garage that are closer than six (6) feet to the side lot line must be screened from view from the adjacent property with a solid fence at least four feet but no more than six (6) feet in height**

XV. To be added to section:

#### 62.273 Accessory Building in Residential Districts-General

##### 2. Lot Development Standards for Accessory Buildings and Structures:

- A. **Coverage:** When located in the rear yard, accessory structures shall occupy no more than 35 percent of the rear yard. **In the CN-NR District, accessory structures shall not occupy more than 75% of the rear yard.**

- B. **Floor Area:** The sum of the individual gross floor area of each principal and accessory building on a lot should not exceed the maximum floor area ratio, if any, for the applicable zoning district. In any residential district, detached garages for residential uses shall be excluded from the floor area ratio. Detached garages for residential uses shall be included in the calculations to determine lot coverage by buildings, structures, and paved surfaces. The development must comply with the minimum percent of landscape area specified in the standards for uses in the residential zoning districts.
- C. Setbacks shall be measured from the wall of an accessory structure. A roof may not extend beyond the wall more than six inches where located within 18 inches of a side or rear lot line.
- D. Separation of accessory structures from principal structures shall be as required by the Building Code.
- E. No detached accessory building or structure shall exceed the following heights:
- (1) In low density residential districts **(except the CN-NR district)** – 15 feet. Furthermore, no accessory building or structure may exceed a height of 18 feet measured as the vertical distance above grade along any side or rear wall measured to the highest point of the coping of a flat roof, or to the average height between the eave and ridge of a gable, hip or gambrel roof.
  - (2) In medium and high density residential districts – 25 feet. Detached garages located in medium and high density residential districts shall not exceed 15 feet.
  - (3) **Accessory buildings located in the CN-NR District:**
    - a) **The maximum height, as described in the definition section of the Zoning Ordinance and LDM, of an accessory building may not exceed the height of the existing principal building (dwelling) on the lot. If the principal building (dwelling) on the lot is more than two residential stories in height, the height of an accessory building cannot equal the height of the principal building (dwelling) but is limited to a maximum height of two**

**residential stories in height. Accessory buildings more than one residential story in height must be built to match the primary exterior materials and color of the primary exterior materials of the principal building, the roof pitch of the primary roof pitch of the principal structure and the width of the roof overhang(s) on the principal building.**

b) **An accessory building that meets the height requirements of 62.463 a) may be developed as multi-story building. The upper floor is limited to no more than 785 square feet of floor area. The upper floor space is limited to an accessory use for the occupants of the principal use on the lot; as an office use developed as a home occupation (62.278) or as an accessory dwelling unit.**

F. No part of an accessory building may be located on or extend into a utility or drainage easement, including any eaves.

G. The sum of the individual gross floor area (including interior parking areas) of each accessory building on a lot containing a single family dwelling, duplex or single family attached dwelling may not exceed 15 percent of the lot size or 1,500 square feet, whichever is less. **On lots in the CN-NR zoning district, regardless of their lot area, the maximum ground floor footprint or any floor level above the ground floor of a single detached accessory building or the combined ground floor footprints of all accessory buildings shall be no more than 785 square feet. In the CN-NR district the allowed gross accessory building square footage is a factor of the permitted height of the building. In the CN-NR district, the maximum number of detached accessory buildings on a lot shall be limited to two.**

**XVI. To be added to section:**

**62.278 Detailed Accessory Use Regulations:** The following paragraphs detail additional requirements that are placed on specific types of accessory uses or structures due to their unique nature or their potential for having possible adverse effects on surrounding properties. These specific accessory uses or structures are not allowed except under the particular requirements contained herein. [Any person who makes, or allows to be made, one of the specific accessory uses identified herein, without meeting all of the specific

requirements therefore, is guilty of a misdemeanor. Additionally, any person who constructs an accessory structure identified herein without meeting all requirements identified for that type of structure is guilty of a misdemeanor.]

1. **Home Occupations:** Any home occupation meeting the following conditions shall be considered a permitted use for which the zoning administrator may issue a zoning certificate under the Type I process:
  - a) The home occupation shall not occupy more than twenty-five (25%) percent of the livable area of the dwelling unit or five hundred (500) square feet, whichever is less, and it shall not involve internal or external alterations or construction features not normally found in dwellings.
  - b) No person, other than a member of the family residing in the dwelling unit, shall be engaged in the home occupation.
  - c) No mechanical equipment or process is used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises, including that which creates visual or audible interference on any radio or television receiver located off the premises.
  - d) No exterior storage of equipment or materials in connection with the home occupation and no display of products, goods or services which is visible from outside the dwelling unit is permitted.
  - e) The entrance to the space devoted to such use shall be from inside the dwelling.
  - f) Only articles made or originating on the premises shall be sold, unless such articles are incidental to a permitted commercial service.
  - g) The traffic that may be generated by such use shall not be of such magnitude as to have a significant detrimental effect on the capacity of streets in the area, and any need for parking generated by the conduct of the home occupation shall be met off the street and not in a required yard adjacent to a street.
  - h) Only one vehicle used in connection with the home occupation shall be stored or stopped on the premises, and such vehicle shall not be a truck,

such as a dump truck, wrecker, or fuel oil delivery truck. No advertising shall be displayed on the vehicle in any manner, but it may identify the home occupation.

- i) Only the following uses, as each are described in the following paragraphs of Section [62.140](#), may be considered under the Type I process:

62.142 Offices

62.143(B) Personal Services

- j) No permit approving a home occupation is transferable to another person. In addition, any permit approving a home occupation is deemed to be valid for only the person, the business and the location where approved.
- k) In the R-Sa, R-1, **CN-NR**, R-1x, and R-2 districts, one small, unlighted professional sign, not exceeding two (2) square feet of display area stating merely the name and profession or occupation of the occupant is permitted. Such signs shall be attached to the front of the dwelling. In the R-3 and R-4 districts, one sign not exceeding four (4) square feet shall be permitted, except on a lot that has public road frontage along a collector or higher level street or on a lot which directly abuts a nonresidential zoning district. In those instances one sign not exceeding twelve (12) square feet is permitted.
  - 1) Each individual home occupation sign within a multi-family residential dwelling shall be no greater than two (2) square feet in size, and there shall be no more than a cumulative total of twelve (12) square feet of signage permitted for the multi-family dwelling.

All other home occupations not meeting the above criteria shall be processed as Type II Conditional Use Permits. Any other home occupation shall meet conditions a, c, d, f, and k listed above.

No home occupation may be approved as a Type I if it involves the use of an accessory building or structure on the lot, except for uses utilizing recreational facilities such as swimming pools or tennis courts. No home occupation may use an accessory building or structure except for minor storage if approved



under a Type II procedure. **Notwithstanding the previous sentences, in any of the Core Neighborhood Zoning Districts, home occupations, as a Type I use, may occupy the second floor area, up to a maximum of 785 square feet, of a detached garage accessory building.**

XVII. To be added to section:

62.278 Detailed Accessory Use Regulations

2. **Accessory Apartments:** Accessory apartments are permitted in existing one family detached dwellings not located in the R-Sa<sub>2</sub> or R-1 **or CN-NR** districts if the following requirements are met:

XVIII. New sub-section to be added to section:

62.278 Detailed Accessory Use Regulations

**62.278, 2a. Core Neighborhood-Neighborhood Residential CN-NR District Detached Accessory Apartment Standards:**

**This section is intended to regulate the creation of an accessory apartment developed as part of a detached garage by the resident owner of a principal single family detached dwelling on a lot in CN-NR zoning district.**

**(a) Only one of either a detached accessory apartment (as regulated under section 62.278, 2a,) or a rear dwelling (as regulated by 62,278, 4.), may be permitted on a residential lot in addition to the principal single family detached dwelling on the lot**

**(b) For a lot to be the site of an detached accessory apartment unit, together with a single family detached dwelling, it must have a minimum lot area of 5,000 square feet.**

**(c) A detached accessory dwelling unit shall be constructed as part of and in combination with a detached garage that contains at least one automobile parking space. The detached garage/ accessory dwelling unit building must be located on the lot to the rear of the principal single family detached dwelling on the lot.**

**(d) The combination garage /accessory dwelling unit building must conform to all applicable standards and setbacks for a garage/ accessory building with the exception that the wall(s) of any part of the building used for the accessory dwelling unit must be a minimum distance of six (6) feet from the nearest wall of the principal single family detached dwelling on the lot and the wall(s) of the accessory dwelling unit may not be located in the required side yard.**

**(e)The total floor area of the accessory dwelling portion of the building shall unit not exceed 900 square feet. The floor area of any portion of an accessory dwelling unit situated on the second floor of a detached garage shall not exceed 785 square feet in area.**

**(f) An accessory dwelling unit shall meet municipal housing code standards for rental housing unit; display the dwelling address number at a location and size that is visible from the street that provides access to the dwelling unit and also from the alley if the garage is accessed from an alley; and have a paved pedestrian access to the door of the accessory dwelling unit from the street and also the alley if the detached garage has access to an alley.**

**(g) One off-street parking space shall be provided on the lot for an accessory dwelling unit in addition to the off-street parking space(s) required for the principal dwelling on the lot.**

**(h) An accessory dwelling unit shall be constructed so as to be compatible in appearance with the existing principal dwelling on the lot, as well as the surrounding neighborhood in terms of design, form, height, materials, and landscaping.**

**(i)At any given time either the accessory dwelling unit or the principal single family detached dwelling unit may be rented if it complies with the Rochester Housing Code and receives approval to do so. At any time that both dwelling units on the lot are occupied, one of the residential units on the property shall be owner occupied.**

**XIX. To be added to section:**

#### **62.278 Detailed Accessory Use Regulations**

**4.Rear Dwellings:** In the R-1, **CN-NR**, R-1x, and R-2 districts, a building to the rear of an existing principal building may be used for residential purposes only if it conforms to all the lot area, yard, landscaping area and off-street parking requirements of the zoning ordinance. For the purpose of determining the front yard in such case, the rear line of the required rear yard for the principal building in front shall be considered the front lot line for the building in the rear. In addition, there must be provided for any such rear dwelling an unoccupied and unobstructed accessway to a public street of no less than eighteen (18) feet in width.

**XX. To be added to section:**

## 62.278 Detailed Accessory Use Regulations

- 8) **Related Service Facilities:** "Related service facilities" are accessory uses which include: snack bars, restaurants, cafeterias, and other eating establishments; barbershops, beauty shops, gift shops, newsstands, office supply sales, duplicating services, and similar retail stores and services; swimming pools, tennis courts, playgrounds, playfields, meeting rooms, exercise rooms, saunas, gymnasiums, and similar recreational facilities; dispensaries and similar health care facilities; and self-service laundry and dry cleaning drop-off facilities. It does not include adult entertainment or uses which are allowed as a general use in the district. No permit shall be issued for a related service facility unless:
- a) The facility is accessory to a principal use which provides living facilities, employment, or overnight accommodations for a significant number of persons, such as a multifamily dwelling, office or institutional building, manufacturing plant or research facility, or hotel.
  - b) The gross floor area of all retail and service facilities within a multifamily dwelling shall not be greater than twenty-five (25%) percent of the gross floor area of all the dwelling units therein or 4,000 square feet, whichever is the lesser. All facilities located within a dwelling in the R-4 District or Central Development Core are exempt from this requirement.
  - c) The facility shall be operated only for the residents, employees, or guests of the principal use and their guests. When provided in the R-4 District or Central Development Core, such facilities are exempted from this requirement and may be open to the public on a fee or other basis.
  - d) In the R-1, **CN-NR**, R-1x, R-2 and R-3 Districts, the facility shall not have direct outside access through a wall by way of a door. No storage, or display shall be visible from outside the building. When provided under the density bonus provisions of the high density residential districts, retail sales and service uses, indoor recreational facilities, restaurants, theaters, nightclubs, and similar entertainment uses, and health care facilities are exempted from this requirement.
  - e) Permitted signage shall not exceed Standard R in the R-1, **CN-NR**, R-1x, or R-2 Districts, or Standard A in the R-3 or R-4 Districts, as defined in Section [63.220](#).

XXI. To be added to section:

62.278 **Detailed Accessory Use Regulations**

**10) Bed & Breakfasts:** In the **CN-NR**, R-2, R-3 and R-4 zoning districts, a bed and breakfast may be established as a Type III Conditional Use subject to the following criteria:

- a) The proprietor of a bed and breakfast must also be the owner and occupant of the property.
- b) In the **CN-NR and** R-2 zoning districts, bed and breakfast facilities will be limited to a maximum of three double occupancy guest rooms, except in instances where the proposed bed and breakfast is on a lot 20,000 square feet or larger in area. In those instances a maximum of five double occupancy guest rooms may be permitted. In the R-3 and R-4 zoning districts, the maximum number of double occupancy guest rooms will be limited to five.
- c) Breakfast is provided by the host to the guests only, and no other meals are to be served to guests and individual rooms that are rented shall not contain cooking facilities.
- d) Signage shall be limited to that permitted under the home occupation provisions of Paragraph 62.278 (1,k).
- e) One off-street parking space plus one parking space for each guest room shall be provided, **in the CN-NR district only one-half of a parking space shall be provided for each guest room**, and shall meet the provisions of Paragraph 63.455
- f) The dwelling proposed for a bed and breakfast facility must consist of at least 1,500 square feet of habitable floor area.
- g) Guest stays are limited to no more than fourteen consecutive days.
- h) A distance separation of at least five hundred feet must be maintained between bed and breakfast uses in the R-2 zoning district. No distance separation is required in the **CN-NR**, R-3 and R-4 districts.

- i) Bed and Breakfast facilities must meet applicable health, building and fire code requirements prior to establishing the use on the property.
- j) Bed and Breakfast facilities in existence prior to August 1, 1997, may be transferred to new owners provided all other conditions are met.

No Bed and Breakfast facility shall be permitted on a lot which is less than 10,000 square feet in size **except in the CN-NR district where the minimum lot size for a Bed and Breakfast is 4,000 square feet.** This subsection, however, shall not apply to any Bed and Breakfast facility which is in existence at the time this ordinance takes effect.

XXII. New section to be added:

**62.460 CORE NEIGHBORHOOD ZONING DISTRICT TABLES**

**The Zoning District Tables contained in this article contain the basic lot development standards and site appearance controls applicable to uses in the Core Neighborhood Area surrounding the Central Development Core.**

XXIII. New section to be added:

**62.461 CORE NEIGHBORHOOD – NEIGHBORHOOD RESIDENTIAL DISTRICT**

**This article lists the standards applicable to uses permitted in the Neighborhood Residential District of the Core Neighborhood Area the “CN-NR District”.**

XXIV. New table to be added: SEE SEPARATE ATTACHMENT

**62.462 CN-NR GENERAL ZONING DISTRICT STANDARDS**

**The following table identifies the general zoning district standards applying to uses in the CN-NR Zoning District.**

See separately printed table at larger scale

XXV. New table to be added: SEE SEPARATE ATTACHMENT

**62.463 CN-NR SITE APPEARANCE STANDARDS**

**The standards in this table identify the site appearance standards applying to uses in the CN-NR Zoning District**

See separately printed table at larger scale

XXVI. New section to be added:

**62.490 DETAILED USE REGULATIONS; CORE NEIGHBORHOOD AREA:**

**The following paragraphs identify specific requirements applicable to certain types of permitted uses identified in the Zoning District Tables contained in this Article.**

XXVII. New paragraph to be added:

**62.491 Conversion of an Existing Single Family Detached Dwelling: The conversion of an existing detached single-family dwelling to a higher density use on the same lot is prohibited, except as regulated in Subsection 1) as a Type III Use (Conditional Use Permit)**

**1.) Type III Use: Where an existing detached single-family dwelling exceeds four thousand (4,000) square feet in Gross Floor Area and is situated on a lot that meets or exceeds the minimum lot area required for the proposed use and all other applicable zoning standards can be met, a conversion of the existing dwelling may be considered for approval if it is determined that a)the existing home is either presently out-of-character with the with other single family detached dwellings on the block (both sides of the street) because of its overall mass or appearance or in character with other existing converted dwellings on the same block and b)the existing house is presently designed so that the conversion can be made without greatly modifying the exterior appearance of the dwelling and specifically that the entry door to the new unit can share the existing front entrance to the existing dwelling or if a new ground floor entry door is necessary it can be situated on the side of the dwelling or the new entry door is taken from the rear wall of the dwelling and c) fire exiting requirements can be met without altering the appearance of the dwelling from the street.**

XXVIII. New paragraph to be added:

**62.492 CN-NR Design Requirements**

**1. Applicability: Design requirements must be met for a new principal structure or building (dwelling); in certain instances, when an addition or modification to an existing structure or building has a building permit**

value that exceeds by 50% the present Olmsted County assessor's estimated market building value, the entire building or structure may be required to conform to all of the design requirements of the district; and certain modifications may be required to meet a specific design requirement without all other design requirements being met.

2. Any structures or buildings legally established prior to these design requirements are not considered non-conforming, however alterations or changes shall not further reduce the current level of compliance with the design requirements.

- A) All new dwellings or existing dwellings modified to an extent greater than 50% of the present assessor's market building value must have an entry door on the wall or façade of the dwelling that faces the public street with at a minimum a covered, stoop, porch, patio/landing at least 3' by 3' in size in front of the entry door. The covering roof must be at least four feet wide, extend out from the wall at least three feet, be centered on the stoop/porch/patio-landing and made of similar materials found on the exterior of the home;
- B) Any new porch added to an existing dwelling or a newly enclosed with walls, screened walls or windows existing porch must have a minimum depth from the front façade of the dwelling of six (6) feet, the minimum dimension of any visible supporting columns, posts or pillars must be 6 inches and the sidewalls enclosing the porch must be 50% transparent being either clear glazing, screens or a combination thereof. If the porch is enclosed only by a railing, the railing must have a bottom horizontal rail that is at least three inches above and parallel to the porch floor or deck;
- C) All new dwellings or existing dwellings modified to an extent greater than 50% of the present assessor's market value must have a paved sidewalk at least 3 feet in width from the public sidewalk, or from the curb of the street if no sidewalk is present,

to the front stoop, porch, patio or landing of the dwelling leading to the front door of the dwelling;

- D) At least 20% of the front façade of a dwelling must be windows or doors and at least 10% of all other walls of a dwelling must be made up of windows or doors. All front façades or walls of a new dwelling must conform to these minimum standards upon initial construction; additions to a dwelling that would result in the area of a single front façade or other wall(s) of an existing dwelling to increase in area by 50% or more must be designed and built so the entire modified façade or wall conforms to the design standards but not the entire dwelling; additions that result in an increase in façade or wall area of less than 50% are not required to meet the minimum window or door opening standard; if an existing window or door is removed, the minimum requirement of door and window openings for the existing façade or existing wall cannot be reduced below the required percentage;
- E) All new single family detached dwellings must have a minimum of 750 square feet of habitable floor area and no level of modification to an existing dwelling of less than 750 square feet shall require conformance with this standard;
- F) Poured concrete, flat (non-textured) concrete masonry units (blocks), asphalt shingles or rolled asphalt siding are prohibited as the final exterior finish of the portion of any façade or wall of a dwelling that is three (3) feet or more above the adjacent grade on a new dwelling or whenever the exterior siding material of an existing dwelling is changed; all exposed, exterior wood surfaces on a façade or wall must be painted or stained; all exterior doors and windows must be surrounded by finish trim with a minimum dimension of at least 2 and one-half inches when installed on new dwelling, or when the exterior siding material on an existing dwelling is changed;
- G) Any newly installed horizontally oriented lap siding shall have an exposure width of no more than six inches unless it is matching existing siding that is remaining in place on the dwelling;



- H) New fire-escape facilities shall not be attached to the front façade of a dwelling.
- I) All rain downspouts attached to buildings must be exited and directed to a rain barrel or cistern, a rain garden or a non-eroding pervious surface.
- J) On lots where an alley is present to provide access, additional curb cuts on the public street shall be prohibited. An Administrative Departure may be requested from the Director of Public Works where, due to special conditions, this requirement cannot be satisfied
- K) For new dwellings, any portion of a street-facing facade that contains an attached garage door may occupy no more than fifty percent (50%) of the width of that building facade, measured at grade. The portion of the street-facing façade that contains the garage door may not extend forward or toward the street any more than the rest of the façade for the dwelling.
- L) New residential projects must provide on the site at least one 2 inch diameter canopy tree meeting the plant material standards of the LDM per new dwelling unit on the site.
- M) Every existing subdivided lot abutting a public street with a boulevard should have at least one boulevard tree. If an existing lot does not have a boulevard tree and there is adequate room to plant a tree according to the City Arborist, a boulevard tree meeting City of Rochester standards must be planted when a new dwelling is built or when an addition or modification to an existing structure or building (dwelling) has a building permit value that exceeds by 50% the present Olmsted County assessor's estimated market building value .All other boulevard tree requirements would meet present City policies.
- N) One foundation plant for every four (4) feet of front façade of a dwelling shall be required whenever a new dwelling or porch is built. The plantings shall conform to the minimum plant sizes of 63.154 and be situated along the front of the dwelling or porch

**foundation to screen the visibility of the foundation from the street.**

O) **All new ground mounted air conditioning/heating units; gas meters; electric meters, transformers or panels; television/computer cable boxes; or other similar utility service connection that are visible from the public sidewalk adjacent to the property must be screened to the extent legal and practical with shrubs, ornamental grasses or perennial plants.**

P) **The perennial grass-cover of the front yard of all new development must be established by the installation of perennial sod.**

XXIV. To be added to paragraph:

62.651 **Low Density Residential Development:** The criteria listed in this paragraph will be considered in granting bonus density in the R-1, **CN-NR**, R-1x, R-2, and Developing (Low Density Residential) Districts.

XXV. To be added to table:

62.722 **Mixed Use Developments, Residential Districts:** The criteria in this paragraph established intensity guidelines for Mixed Use Developments in Residential Districts:

ZONING DISTRICT	MINIMUM SITE AREA	FLOOR AREA RATIO (1)					MINIMUM PERCENTAGE LANDSCAPE AREA (2)	MAXIMUM HEIGHT
		1st	2nd	3rd	4th	5+		
		Acre	Acre	Acre	Acre	Acre		
R-1, <b><u>CN-NR</u></b> & R-1x District	12,500	8%	7%	6%	5%	4%	50%	20'
R-2 & Low Density Residential Areas	10,000	10%	9%	8%	7%	6%	40%	20'
R-3 & Medium Density Residential Areas	8,000	14%	13%	12%	11%	10%	35%	30'
R-4 District	6,000	18%	17%	16%	15%	14%	25%	30'

XXVI. To be added to paragraph:

62.723 **Mixed Use Development, R-1, CN-NR, R-1x, and R-2:** In an R-1, CN-NR, R-1x, or R-2 District or upon any lot which is adjacent to an R-1, R-1x or R-2 District, a mixed use development may be approved as a Type II use if it satisfies the following criteria:

XXVII. To be added to paragraph:

62.724 **Mixed Use Development In R-3 Districts:** In an R-3 District, a mixed use development is subject to the provisions and approval procedures of 62.723. If not abutting a lot zoned R-1, CN-NR, R-1x, or R-2, the mixed use development may be approved as Type I development if it meets the following criteria:

1) **Permitted Use Types:**

Office	Personal Service
Retail Trade	Day Care
Convenience Retail	Retail Agricultural
Self Service Storage	

- 2) The development meets the district standards listed in Paragraph 62.722.
- 3) The development is located along a major local or higher order street.
- 4) Bufferyards for the nonresidential use are provided which are equal in magnitude to those which would be required if the land was zoned B-1.
- 5) The development meets the Appearance Controls for permitted nonresidential uses in the R-3 District.
- 6) Nonresidential buildings are separated from one family dwellings located in an R-1, CN-NR, R-1x or R-2 District by:

XXVIII. To be added to paragraph:

62.725 **Mixed Use Development in an R-4 District:** In an R-4 District, a mixed use development is subject to the provisions and approval procedures of 62.723. If not abutting a lot zoned R-1, **CN-NR**, R-1x, or R-2, a mixed use development may be approved as a Type I use if it meets the criteria listed in Paragraph 62.724. Additional uses which may be considered are Restaurants and Indoor Athletic Facilities.

XXIX. To be added to paragraph:

62.732 **Type I Transitional Developments:** The following types of transitional development are permitted through the Type I procedure:

- 1) In the R-1x **and CN-NR** Districts, a transitional lot may be developed according to the regulations of the R-2 district; in the R-2 District any transitional lot may be developed according to the regulations of the R-3 District.
- 2) In the R-1x **and CN-NR** Districts, any lot abutting on the side a permitted nonresidential use such as convenience retail use may be developed according to the regulations in the R-2 district.

XXX. To be added to paragraph:

62.735 **Transitional Development in Developing District:** Where land adjacent to a transitional lot in the Developing Low Density Residential District is zoned R-1, **CN-NR** or R-1x, the permitted uses shall be those indicated in the table in Paragraph 62.511 for Established R-2 zoning; where the lot adjacent to a transitional lot is zoned R-2, the permitted uses shall be those indicated in the table in Paragraph 62.511 for Established R-3 zoning.

XXXI. To be added to section:

## 62.760 ADAPTIVE REUSE, COMMERCIAL BUILDINGS

A development involving the reuse of a building constructed after the effective date of the ordinance in an R-1, **CN-NR**, R-1x, and R-2 District for occupancy by a Convenience Retail or Office use, or a building in existence on the effective date of the ordinance presently in a Residential District which was a conforming non-residential use under the previous ordinance.

XXXII. To be added to paragraph:

**62.933 Permitted Zoning Districts:** Area accessory developments which may be permitted in R-Sa, R-1, **CN-NR**, R-1x, R-2, R-3, R-4 or the Developing District Residentially Planned Areas and CDC-Residential Areas are limited to Section 62.930, Subd. 2 (A), (B), (D), (E), (F), (G), (J), (K) and (L). The area accessory development described in Section 62.930, Subd. 2(M) is permitted in the CDC-Residential District. WECS and WECS Meteorological Towers may be permitted as a Type III, Phase I conditional use permit in the CDC zoning districts. The Common Council shall be the hearing body. All uses listed in section 62.930 may be permitted in any nonresidential district. Applicable general zoning district and site appearance standards are found in the appropriate zoning district tables.

**XXXIII. To be added to table:**

**62.936 Accessory Site Location Standards:** Site location standards shall be met for all area accessory uses according to the following table.

**62.936 AREA ACCESSORY DEVELOPMENTS SITE LOCATION STANDARDS**

The standards in this table identify the Site Location Requirements for Area Accessory Developments in all Zoning Districts. The Site Location Requirements are described in section 63.250. The permitted uses are described in section 62.930, subd. 2 (A) – (M).

LIST OF PERMITTED USES	ZONING DISTRICTS		
	Residential Uses	B-5	All Other Districts
Utilities (A)			
Utility Stations (B)			
Major Water and Sewer Facilities (C)	*	J	E
Public Emergency Facilities (D)	J	J	J
Parks and Recreation Facilities (E)			
Neighborhood	E	E	E
Regional	D	D	D
Schools (F)			
Nursery	E	E	E
Elementary	D	D	D
Secondary	J	J	J

Churches (G)	E	E	E
Government/Non-Profit Offices (H)	*	D	
Cultural Facilities (I)	*	D	
Bus Shelters			
Recycling Containers (J)	*	D,F	
Cemeteries (K)	E	E	E
Social Services Centers (L)	A		
Colleges and Universities (M)	*except in the CDC Res. Where E required	*	

NOTES: "Residential" includes R-Sa, R-1, CN-NR, R-1x, R-2, R-3, R-4, AG, Developing District Residential and CDC-Residential

means that the use is not permitted in the district

A blank means that there is not a Site Location Requirement

XXXIV. To be added to paragraph:

**62.938 Wind Energy Conversion Systems:**

Subd. 3 Aesthetic and Environmental Requirements:

- A. **Tower type:** For Small Utility WECS, the wind turbine towers shall be freestanding and of tubular construction. Guyed towers are not a permitted structure in any zoning district.
- B. **Color and finish:** All wind turbines and towers that are part of a WECS shall be a neutral color including white, grey, light blue, or other non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be non-reflective.
- C. **Lighting:** There must be no illumination of WECS unless required by the FAA. The site shall comply with all FAA lighting requirements. White strobe lights are not permitted unless required by the FAA. White strobe lights shall not be used between dusk and dawn. Red strobe lights are required for all towers located on the perimeter of the site for nighttime illumination to reduce impacts of migrating birds.

Interior towers shall not be lit unless required by the FAA standards. Simultaneously pulsing lights are required for the perimeter lights.

- D. **Signage:** The manufacturers or owner's company name and/or logo may be placed upon the nacelle of the WECS. Warning signs shall be placed on the tower for safety purposes. No other signs may be permitted on the WECS.
  
- E. **Location:** Wind energy conversion systems shall not be located within floodplain districts as regulated in section 62.800, the Shoreland district as regulated in section 62.1000, or wetlands as regulated under Minnesota Rules Chapter 8420.
  
- F. **Waste:** All previously used parts and equipment shall be removed from the site and properly disposed. All hazardous waste generated by the operation and maintenance of the WECS shall be removed from the site and recycled or disposed of properly as required under Minnesota statutes and rules.
  
- G. **Height:** Height shall be as specified in the zoning district within which the WECS is located. WECS that are placed on principal structures may not exceed the height permitted in the applicable zoning district. Section 60.424 Design Modifications establishes additional height standards for freestanding WECS.
  
- H. **Number of WECS:** No more than one freestanding WECS is permissible per development site within the R-Sa, R-1, **CN-NR**, R-1x and R-2 districts.

**XXXV. To be added to table:**

62.941 **Separation and Concentration in Residential Zones: Subdivision 1.** Separation in Residential Zones. Offender Transitional Housing may be established in a residential zone only on a parcel that is at least as far as the distances indicated in the table below from another existing, or approved but not yet constructed, Offender Transitional Housing use in any zoning district:

Zoning Designation	Separation Required
R-Sa, R-1, <u>CN-NR</u> , R-1x, and special districts and PUD's with underlying R-Sa, R-1, or R-1x zoning	>= 1,000 feet
R-2 and special districts and PUD's with underlying R-2 zoning	>= 600 feet
R-3 and special districts and PUD's with underlying R-3 zoning	>= 400 feet
R-4, CDC Residential, and special districts and PUD's with underlying R-4 zoning	no minimum separation

XXXVI. To be added to paragraph:

63.112 **Special Yard and Setback Requirements:** The following special yard and setback requirements are established by the ordinance:

- 1) **Front Yards on Cul-de-Sacs:** On lots fronting a cul-de-sac or curvilinear street, the front yard setback may be established a) as a straight line which at no point is closer to the front lot line than a distance calculated as 80 percent of the required front yard, or b) as a line which is parallel to the front lot line at the required setback distance. In no instance shall a setback greater than that established for the district be required.
- 2) **Side Street Side Yard:** The side street side yard shall have a depth equal to the 1/2 of the required front yard in the applicable zoning district. That portion of a side street side yard within 25 feet of a lot line separating the side street side yard from the front yard on an adjacent lot shall have an increased depth defined by a line where one endpoint is 25 feet from the common lot line and located on the side street side yard line and where second point is located 6 feet from the common lot line and 20 feet from the side street side lot line. **In CN-NR district that requires a front yard setback or build-to-line, the side street side yard setback shall be 11 feet in width.**
- 3) **Through Lots:** On through lots the lot line across which access is provided and towards which the primary windows and entrances are oriented shall be considered the front lot line. The opposite frontage shall be treated as a side street lot line.



- 4) **Existing Small Lots:** On any residential lot of record in existence on the effective date of this ordinance with a depth of less than one hundred (100) feet, the depth of the minimum rear yard may be reduced one percent (1%) for each one (1) foot such lot is less than one hundred (100) feet in depth, but the reduction shall not exceed one-half (1/2) of the required minimum rear yard.
- 5) **Alleys:** When a side yard or rear yard on a lot abuts an alley, one-half of the width of the alley may be counted towards meeting the side or rear yard requirement, but in no case shall this result in a building or structure being erected closer to the alley than 1/2 the distance of the minimum required yard or, in the case of a rear yard, closer than five feet from the right-of-way line.
- 6) **In the CN-NR district, the front build-to-line is a line between a minimum of 16 feet and a maximum of 24 feet from the front lot line, dependent upon whether there are any existing dwellings within 20 feet of the side lot line(s) of the subject property. When a dwelling is located within the referenced 20 feet of the subject property that fronts the same street as the proposed building, a build-to line "similar" to that dwelling shall be used. If there are two adjacent dwellings within 20 feet fronting the same street, then an average setback shall be calculated using the depth of the front yard of the two adjacent residences to determine the build-to-line. "Similar" in this case means the build-to line selected is no more than three feet in front of or more than ten feet behind the build-to line provided by the nearest dwelling(s), but shall never be greater than the maximum build-to line dimension. For example, if the adjacent, existing single family residence has a front yard setback of 20 feet, then the new building shall have a build-to line between 17 feet and 24 feet (the maximum).**

**XXXVII. To be added to paragraph:**

63.122 Except as otherwise provided by this Code, porches, balconies, canopies, stairways, steps and necessary landings and decks which are open (except for reasonable supports, covered patios, enclosed courts, eaves, awnings, bay windows, fire escapes, chimneys, and steps) may extend into or over no more than 33% of the depth of a minimum yard or setback which is required along a front or side lot line, and in no case closer than four feet to a side lot line. **In the CN-NR district porches, balconies, canopies, stairways, steps and necessary landings and decks which are open (except for reasonable supports, covered patios, enclosed courts, eaves, awnings, bay windows, fire escapes, chimneys, and steps) or have walls with at least a 50% transparency may extend into or over**

**the required front or rear yard setback by as much as eight (8) feet or in required side or side street yards by as much as two (2) feet.)**

XXXVIII. To be added to paragraph:

- 63.126 **Fences, Walls, and Hedges:** Subdivision 1. A fence, wall, column, pier, post or any similar type structure, or any combination of such structures, may be permitted in any required yard or setback subject to the following requirements:
- A. It shall be the responsibility of the property owner to locate all property lines.
  - B. No fence, wall, or hedge may extend beyond or across a property line unless in joint agreement with the abutting property owner.
  - C. No fence, hedge or wall shall be placed closer than 18 inches to any public sidewalk or within five feet of any alley right of way.
  - D. Fences and walls shall not exceed six feet in height above the elevation of the surface of the ground at any point **(See Paragraph H. for additional restrictions)**, except
    - (1) in instances where public safety or security necessitate, the zoning administrator may authorize fences and walls to have a maximum height not to exceed ten feet above the elevation of the surface of the ground at any point; or
    - (2) when the grade of buildings on adjacent lots is greater than that of buildings on the applicant's lot, the fence may exceed the height limitations, but in no case will the fence exceed the grade of the adjacent building by more than five feet.
  - E. No fence, wall or hedge shall be placed closer than ten feet to the intersection of a driveway with any right of way used for vehicular or pedestrian traffic, including alleys.
  - F. Fences, walls and hedges located within the traffic visibility zone are subject to the provisions of section 63.500.
  - G. Previous references to walls shall apply to freestanding walls only. Walls erected for the purpose of landscaping or protecting slopes shall be permitted as regulated within the Building Code.
  - H. **In the CN-NR District, fences located within the required front yard or side street side yard shall not exceed four (4) feet in height, shall not be of the chain-link style and must be must be erected following**

**permanent construction practices using typical outdoor suitable fencing materials such as wood, brick, stone, masonry, wrought iron, aluminum, vinyl or PVC.**

XXXIX. To be added to section:

### 63.130 LANDSCAPE AREA

The landscape area ratio identified in the Zoning District Tables shall be applied to the site area or lot area to determine the total amount of landscape area to be provided. All area on a lot or site intended to contribute to the landscape area requirement must meet the further regulations of this section. **In the CN-NR District the minimum ratio of landscape area must be met and in addition one contiguous landscape area of at least 200 square feet in area with a minimum dimension of at least eight (8) feet must be provided on a lot the site of a residential use. Where the lot is less than forty (40) feet in width, the minimum dimension of the 200 square feet of landscape area may be reduced to six (6) feet.**

XL. To be added to paragraph:

63.137 **Permissible Types of Landscaped Areas:** Landscaped areas include required yards, courts and bufferyards which are free of buildings, structures and other substantial improvements (except structures or improvements qualifying as usable recreational area), driveways which serve parking areas providing off street parking for residential buildings with four or less units **except in the CN-NR district where the driveways that serve parking areas are not permissible landscape areas**; ground surface areas located above underground facilities which meet the other requirements of this section; pedestrian and bicycle paths, plazas within a building which are directly oriented to the major pedestrian entrance of the building and are open to view and use by the public, areas developed for either passive or active recreation at ground level and natural areas such as lakes, ponds, wetlands or grassed waterways.

**In the CN-NR district pervious pavement designed for outdoor recreation use or useable open space is a permissible type of landscape area.**

XLI. To be added to paragraph:

63.2241 **Banners:** Subdivision 1. For purposes of this section, the term “banner” shall mean a strip of cloth-like, vinyl, lightweight or other woven material on which a sign appears.

Subd. 2. Notwithstanding any provision in this Code to the contrary, no person may install or maintain a banner unless the banner is mounted parallel to a building façade or other vertical building surface. A banner may not be mounted more than 18 inches from the wall surface to which it is attached.

Subd. 3. Banners in residential districts shall be subject to the following limitations:

Non-Residential Uses (i.e. office, personal service, area accessory – church, school, etc)	No more than one banner shall be permitted per use or per tenant. No banners are permitted on any wall abutting a residential use of less than 4 units or adjacent to a RS-a, R-1, <b><u>CN-NR</u></b> or R-1x District.
Multi-Family Residential developments with 4 units or more	One banner shall be permitted per multi-family development with 4 units or more, when the banner is oriented toward an abutting primary collector road, or higher order roadway or adjacent to a R-2, R-3, B-5, B-1, B-4, M-1, M-2 or M-3 Zoning District. No banners are permitted on any wall abutting a residential use of less than 4 units or adjacent to a RS-a, R-1, <b><u>CN-NR</u></b> or R-1x District.
All other uses in Residential Districts	Banners are prohibited.

**XLII. To be added to paragraph:**

63.252 **Standards:** Subdivision 1. The Site Location Standards are provided in subdivision 2 of this section.

Subd. 2. Site location standards

- A. **Site Location “A”:** In an Established Zoning District, uses may locate at the intersection of a collector street and a higher order street (street classifications are based on the Thoroughfare Plan) or at the intersection of two higher order streets. In the Developing District, uses may locate at the

intersection of a major local street and a higher order street or at the intersection of two higher order streets.

B. **Site Location “B”**: A single family detached dwelling may be converted to a duplex in the R-2 or **CN-NR** or R-1x Districts in any of the following circumstance:

- (1) Where the dwelling is 40 years or older, in excess of 1, 500 square feet in size and on a lot over 7,200 square feet in size. **(Not applicable in the CN-NR district. See 62.491 for regulations on the potential conversion of a single family dwelling to a duplex.)**
- (2) Where each of the lots adjoining an existing lot on the side (or in the case of a corner lot the side and rear) is occupied by a duplex, multifamily dwelling or other use not permitted in the underlying zoning district.
- (3) Where the lot has direct access to a freeway, expressway or arterial as designated on the Thoroughfare Plan, or to a frontage road contiguous to a freeway, expressway or arterial.

A new duplex **on a existing lot of record that may or may not meet the minimum area and width requirements** may also be constructed in the R-2 or  $\frac{1}{2}$  R-1x **or CN-NR** District where the site satisfies either paragraph (2) or (3) above.

C. **Site Location “C”**: The use shall be located at the intersection of two arterial or higher order streets in an R-Sa, R-1, **CN-NR**, R-1x, R-2, or R-3 District.

XLIII. To be added to table:

SECTION 63.264 TABLE OF BUFFERYARD REQUIREMENTS												
NOTE: See Section 63.263 for Directions on Determining Bufferyards												
* Indicates That No Bufferyard is Required												
See Section 63.265 for a Definition of the Bufferyard Types												
	BUFFERYARD INDICATOR	PROPOSED LAND USE										
		I	II	III	IV	V	VI	VII	VIII	IX	X	XI
	I	*	C	D	E	E	F	G	H	I	J	K
	II	*	*	C	D	D	E	F	G	H	J	K

Adjacent Developed Land	III	*	*	*	C	D	D	E	F	G	J	K
	IV	*	*	*	*	D	D	E	F	G	J	K
	V	*	*	*	*	*	C	D	E	E	H	I
	VI	*	*	*	*	*	*	*	E	D	H	I
	VII	*	*	*	*	*	*	*	*	C	C	I
	VIII	*	*	*	*	*	*	*	*	*	B	G
	IX	*	*	*	*	*	*	*	*	*	*	F
	X	*	*	*	*	*	*	*	*	*	*	*
	XI	*	*	*	*	*	*	*	*	*	*	*
Zoning or Land Use Plan Designation of Adjacent Vacant Land or Non-Conforming Use, if in the Same District	R-1, <u>CN-NR</u> , R-1x, or R-2 District or Low Density Residential Designation	*	B	C	D	E	F	F	G	H	J	K
	R-3 District or Medium Density Residential Designation	*	*	A	A	C	D	D	E	F	J	K
	R-4 District or Permanent Public Open Space	*	*	*	*	*	*	B	C	D	J	K
	B-1 or B-5 District	*	*	*	*	*	*	*	*	B	F	H
	MRD District	*	*	*	*	*	*	*	*	*	F	I
	M-1, M-3, or B-4 District or Commercial or Light Industrial Designation	*	*	*	*	*	*	*	*	A	F	G
	M-2 District or Industrial Designation	*	*	*	*	*	*	*	*	*	*	*
	Freeway or Expressway	S1	S1/D	S1/C	S1/B	S1	S1	S1	S1	S1	S1	S1
	Arterial	S1	S1/D	S1/C	S1/B	S1	S1	S1	S1	S1	S1	S1

Adjacent Road Classification  **	Collector or Non-Res. Local	S1	S1	S1	S1	S1	S1	S1	S1	S1	S1	S1
	Residential Major Local	S1	S1	S1	S1	S1	S1/B	S1/C	S1/D	S/E	S1/F	S1/G
	Res. Local or Limited Local	S1	S1	S1	S1	S1	S1/B	S1/C	S1/D	S1/E	S1/F	S1/G

**XLIV. To be added to paragraph:**

**63.265 Definition of Bufferyard Types:** Subdivision 1. Section 63.264 defines the permissible options available in each bufferyard class. Bufferyard requirements are stated in terms of a width and the number of canopy trees, understory trees and shrubs to be provided per 100 linear feet of bufferyard. Section 63.150 specifies the size of plant materials to be used in a bufferyard. Whenever a wall, fence or berm is required in a bufferyard, these are listed as a “structure required” in Section 63.264. The specifications for such structures are illustrated on the page following Section 63.265.

Subd. 2. Whenever a wall is required in addition to a berm and plantings, the wall must be located between the berm and plantings, and the higher intensity use on the adjacent lot in order to provide maximum noise reduction. The wall must be located within two feet of the bufferyard line determined by the bufferyard width adjacent to the higher intensity use unless located within an easement.

Subd. 3. Whenever a fence is required in addition to vegetative plantings, the fence must be located between the plantings and the higher intensity use on the adjacent lot in order to provide for adequate space for plantings, and improve screening and noise reduction. The fence must be located within two feet of the bufferyard line determined by the bufferyard width adjacent to the higher intensity use unless located within an easement.

Subd. 4. If the development on adjoining parcels is deed restricted for solar access, understory trees may be substituted for canopy trees where canopy trees would destroy solar access.

Subd. 5. Boulevard trees shall be required to be established based on a planting distance as specified in this subdivision. The planting distance shall not include boulevard area that abuts city parkland within residential development.

- A. For residential districts R-Sa, R-1, **CN-NR**, R-1x, R-2, one tree for every 50 feet of frontage.

**XLV. To be added to paragraph:**

63.426 **Spillover Parking:** Residential developments, **with the exception those located in the CN-NR zoning district**, shall provide parking in addition to the required off-street parking on a development wide basis for service vehicles and visitors based on the guidelines below. Such parking may be provided on-street, off-street, in any type of permitted community parking facility, or in parking bays designed as part of the original development. All proposed subdivisions shall be reviewed for consistency with these guidelines during the land subdivision review process, and all other developments shall be reviewed during Conditional Use or Zoning Certificate approvals.

**XLVI. To be added to section:**

**63.430 LOCATION OF OFF-STREET PARKING**

Required off-street parking spaces shall be located in relation to the use they serve according to the following requirements. Distances may be measured radially from the nearest point of the building which the parking facility is intended to serve.

**In the CN-NR District on lots where an alley is present to provide access, access to new off-street parking areas on the lot shall be obtained from the alley. Additional curb cuts on the public street shall be prohibited. An Administrative Departure may be requested from the Director of Public Works where, due to special conditions, this requirement cannot be satisfied.**

**XLVII. To be added to paragraph:**

63.455 **Parking Setbacks:** Off-street parking spaces may be located on a lot according to the following rules:

1) **In a Residential District:**

A. In the rear yard; **and in the CN-NR District at-grade, unstructured, off-street parking areas may be located in the rear yard if situated so as to be separated from the dwelling on the lot and any side lot line shared with another residential use by at least six (6) feet.**



**XLVIII. To be added to paragraph:**

63.456 **Screening:** When parking areas for more than six vehicles are developed on a lot adjacent to a lot zoned R-1, **CN-NR**, R-1x, R-2 or R-Sa, or used for single family detached, single family attached, duplex, church, school, or Type I Group Residential Care, screening equal in magnitude to Bufferyard G as defined in paragraph 65.720 shall be established along the property line to screen the adjacent use from the parking area.

**XLVIX. To be added to paragraph:**

63.459 **Front Yard Parking – Performance Standards:** Subdivision 1. The purpose of this section is to regulate the location of surface parking on existing lots in residential zoning districts. The City has regulated front and side yard parking as part of the zoning ordinance since 1966. Therefore, parking outside of a driveway and garage that is not in conformance with the Zoning Ordinance and Land Development Manual adopted in 1992 is considered a non-approved use of a residential lot and must be brought into conformance with the current standards.

Subd. 2. Exceptions to this section exist only when front or side street yard parking in a residential zoning district has been approved as a part of a development review process including a variance, conditional use permit, planned unit development, incentive or restricted use development. This section is further supported by Section 134.11(3).

Subd. 3. Complying with the performance standards. All non-compliant front yard parking must be brought into compliance with the provisions of Section [63.455](#) at the time a zoning certificate is required for planned improvements of the property or at the time that a city rental certificate is issued. When a property owner cannot comply with Section [63.455](#), the applicant may apply for an alternative review.

Subd. 4. Procedure.

- (1) Zoning Certificate. Following notification of a property owner for non-compliance with Section [63.455](#), the property owner must apply for a zoning certificate. The

applicant must submit a site plan that is consistent with Section [63.455](#) with the zoning certificate. The property owner must comply with the approved site plan and zoning certificate.

- (2) Alternative Review: When a property owner is unable to relocate the parking area on a lot that is in compliance with Section [63.455](#) due to the property's physical limitations, including lot width or depth, building location or easements, the property owner must apply for a Type I Design Modification. The property owner must satisfy all of the site performance standards.

Subd. 5. Site Performance Standards. Non-compliant front yard parking must meet the minimum site performance standards of this subdivision when an alternative review is approved.

- (1) Location of Parking: Parking spaces must abut the existing driveway that leads directly to the public street. The parking spaces must be setback from the front lot line and the side street side yard lot line the minimum distance required for that use in the applicable zoning district and six feet from a side lot line. The minimum distance from the parking area to the side yard opposite the driveway must be at least half the length of the principal building as measured from side yard to side yard.
- (2) Lot Coverage: The parking spaces that are located in a front yard may not cover more than:
  - (a) 25% of the required front yard, or no more than 300 square feet, whichever is less, in the R-Sa, R-1, **CN-NR** and R-1X districts;

**L. To be added to table:**

63.635 **Smoke:** Measurement of smoke shall be at the point of emission. The Ringleman Smoke Chart published by the United States Bureau of Mines shall be used for the measurement of smoke. the following table indicates for the various zoning districts the acceptable level of smoke emissions. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity.

Zoning District	Maximum Level of Emission	Exception
R-1, <b>CN-NR</b> , R-1x, R-2, R-3, R-4, and Developing Residential Areas	Ringleman No. 0	None
B-1, B-4, CDC, M-3, MRD	Ringleman No. 1	Smoke of a Shade Equal to No. 2 on the Chart may be Emitted for a Total of Eight Minutes during any one hour period.
M-1, M-2	Ringleman No. 2	Smoke of a Shade Equal to No. 3 on the Chart may be Emitted for a Total of Eight Minutes during any one hour period.

**LI. To be added to table:**

63.642 Vibration shall not exceed the following levels:

Maximum Peak Particle Velocity in Inches per Second	When the Lot is Adjacent to:
0.02 (7 a.m. - 9 p.m.) 0.01 (9 p.m. - 7 a.m.)	R-1, <b>CN-NR</b> , R-1x, R-2, R-3, R-4, MRD, and Developing Residential Areas
0.05	B-1, B-4, M-1, CDC, M-3
0.10	M-2